



City of Wichita Falls City Council Agenda

Glenn Barham, Mayor
Dorothy Roberts-Burns, Mayor Pro Tem
Michael Smith, District 1
Annetta Pope, District 2
Rick Hatcher, District 3
Tim Ingle, District 4
Mary Ward, District 5

Darron Leiker, City Manager
Miles Risley, City Attorney
Lydia Ozuna, City Clerk



Notice Of Regular Meeting Of The Mayor And City Council Of The City Of Wichita Falls, Texas, To Be Held In The City Council Chambers, Memorial Auditorium, 1300 Seventh Street, Tuesday, July 5, 2011 Beginning At 8:30 A.M.

Item #	Bill #
1. Call To Order	
2. (a) Invocation:	Charlie Thomason, Pastor Faith Village Church of Christ
(b) Pledge Of Allegiance	
3. Presentations	
(a) Proclamation – Wild Bird Rescue Day	
(b) Employee of the Month – Michael Jensen - Engineering	
4. Comments From The Public To Members Of The City Council Concerning Items That Are Not On The City Council Agenda. People Wishing To Address The Council Should Sign Up Prior To The Meeting Commencing. A Five Minute Time Frame Will Be Adhered To For Those Addressing Their Concerns.	
5. (a) Approval Of Minutes Of The June 21, 2011 Regular Meeting Of The Mayor And City Council	
(b) Approval Of Minutes Of The June 22, 2011 Special Meeting Of The Mayor And City Council	

CONSENT AGENDA

6. Resolutions	
(a) Resolution Awarding the Bid For The Rehabilitation Of Lift Station No. 2 (CWF11-550-02) To Wichita Contractors, Inc., In An Estimated Total Amount Of \$78,410.00	#97

- | | |
|---|--|
| <div data-bbox="284 226 1242 378"><hr/>(b) Resolution Awarding Bid For The City's Estimated Annual Requirement Of Automotive Lubricating Oils And Grease To Western Marketing, Inc., In The Amount Of Approximately \$138,332.25</div> | <div data-bbox="1331 226 1388 262"><hr/>#98</div> |
|---|--|
7. **Receive Minutes**
- (a) **Board of Adjustment, March 16, 2011**
 - (b) **Landmark Commission, May 24, 2011**

REGULAR AGENDA

- | | |
|---|---|
| <div data-bbox="284 627 1242 777"><hr/>8. Ordinances
<hr/>(a) Ordinance Repealing Section 82-103 Of The Code Of Ordinances, Which Currently Restricts Fishing In Ponds In South Weeks Park To Catch And Release</div> | <div data-bbox="1331 661 1388 703"><hr/>#99</div> |
| <div data-bbox="284 808 1242 1081"><hr/>(b) Ordinance Amending Chapters 22 And 50 Of The Code Of Ordinances Of The City Of Wichita Falls To Adopt And Amend Portions Of The 2009 International Building Code, Plumbing Code, Mechanical Code, Fuel Gas Code, Residential Code, Existing Building Code, And Fire Code, And The 2006 International Energy Conservation Code</div> | <div data-bbox="1331 808 1404 850"><hr/>#100</div> |
| <div data-bbox="284 1102 1242 1302"><hr/>9. Resolutions
<hr/>(a) Resolution Authorizing The Wichita County Appraisal District To Reappraise Property Damaged In Fires That Occurred In Wichita Falls On April 15, 2011, As Declared In The Governor's Disaster Declaration</div> | <div data-bbox="1331 1144 1404 1186"><hr/>#101</div> |
| <div data-bbox="284 1333 1242 1638"><hr/>(b) Resolution Authorizing The City Manager To Execute A Memorandum Of Understanding With Noresco, LLC., To Conduct An Audit and Provide the City With A Report That Details Potential Energy Conservation Measures And Related Equipment Modernization with implementation costs that can be repaid with energy savings, rebates, incentives, and grants, in an amount of \$60,000</div> | <div data-bbox="1331 1333 1404 1375"><hr/>#102</div> |
| <div data-bbox="284 1669 1242 1856"><hr/>(c) Resolution Initiating The Process Of Redistricting City Council Districts And Voting Precincts, Establishing Criteria For Redistricting, And Appointing A Citizens Advisory Committee To Provide Advice And Public Input With Respect To Said Redistricting Process</div> | <div data-bbox="1331 1669 1404 1711"><hr/>#103</div> |

10. **Other Council Matters**
 - (a) **Staff Council Discussion**
 - **Update on Proposed Revisions to Sidewalk Ordinance**
 - (b) **Discussion Of Items Of Concern To Members Of The City Council.**
11. **Pre-Budget Workshop**
12. **Adjourn**

Wheelchair or handicapped accessibility to the meeting is possible by using the handicapped parking spaces and ramp located off the east parking lot on the Sixth Street entrance. Spanish language interpreters, deaf interpreters, Braille copies or any other special needs will be provided to any person requesting a special service with at least 24 hours notice. Please call the City Clerk's Office at 761-7409. Wireless Listening System devices are available at the City Manager's reception area or you may call 761-7404 for inquiries.

Every item on this agenda shall be considered a public hearing. Regardless of the agenda heading under which any item is listed, any word or phrase of any item listed on this agenda shall be considered a subject for consideration for purposes of the Texas Open Meetings Act and other relevant law, and City Council may deliberate and vote upon any such subject and resolutions related thereto. Resolutions, ordinances, and other actions concerning any word, phrase, or other subject may be voted upon, regardless of any language of limitation found in this agenda or any document referring to such action. Any penal ordinance, development regulation or charter provision of the City of Wichita Falls or item which is funded by the current or next proposed City of Wichita Falls budget, including, without limitation, any street, water pipe, sewer, drainage structure, department, employee, contract or real property interest of the City of Wichita Falls, may be discussed and deliberated, and the subject is hereby defined as such without further notice. Any item on this agenda may be discussed in executive session if authorized by Texas law regardless of whether any item is listed under "Executive Sessions" of this agenda, regardless of any past or current practice of the City Council. Executive sessions described generally hereunder may include consideration of any item otherwise listed on the agenda plus any subject specified in the executive session notice. Executive sessions described generally hereunder are closed meetings, may include consideration of any item otherwise listed on the agenda plus any subject specified in the executive session notice, and may include items under Texas Government Code Sections 551.071, 551.072, 551.073, 551.074, 551.076, 551.084, and/or 551.087.

CERTIFICATION

I certify that the above notice of meeting was posted on the bulletin board at Memorial Auditorium, Wichita Falls, Texas on the _____ day of _____, 2011 at _____ o'clock (a.m.)(p.m.).

City Clerk

City of Wichita Falls City Council Agenda



Glenn Barham, Mayor
Linda Ammons, Councilor At Large
Michael Smith, District 1
Dorothy Roberts-Burns, Mayor Pro Tem
Rick Hatcher, District 3
Tim Ingle, District 4
Mary Ward, District 5



Darron Leiker, City Manager
Miles Risley, City Attorney
Lydia Ozuna, City Clerk

Supplemental Notice Of Regular Meeting Of The Mayor And City Council Of The City Of Wichita Falls, Texas, To Be Held In The City Council Chambers, Memorial Auditorium, 1300 Seventh Street, Tuesday, July 5, 2011 Beginning At 8:30 A.M.

Addendum to Regular Agenda

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- | | | |
|---------------|--|-------------|
| 8. (c) | Ordinance Appropriating \$1,330,000 From General Fund Reserves For The Cost Of Acquiring Lot 1, Block 1, Thompkins Addition From Strategic Services, Inc., Ratifying The Purchase Contract With Said Corporation, Providing For Execution Of Related Documents, Providing For Severability, Declaring An Emergency, And Declaring An Effective Date | #104 |
|---------------|--|-------------|
-

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City Clerk

CITY COUNCIL AGENDA
July 5, 2011

ITEM/SUBJECT: Employee of the Month.

INITIATING DEPT: Public Works

COMMENTARY: Presentation of the Employee of the Month Award (plaque, letter of appreciation, dinner for two and check for \$100) to Michael Jensen

☒ Human Resources Director

CITY MANAGER'S REMARKS: Staff is very proud to present Michael Jensen, Senior Engineering Technician as the City's Employee of the Month for July 2011. Michael has been with the Public Works Department since he was hired in March 2002. For the last five years, he has served as the head of the Engineering Laboratory. He has proven to be an invaluable employee for the City and is to be commended for a job well done.

☒ City Manager

ASSOCIATED INFORMATION: Narrative

BUDGET CERTIFICATION (Account No./ Amount) (- -) / ()

☐ Budget Office Review

LEGAL CERTIFICATIONS:

☒ **APPROVED AS TO FORM:**
CODIFICATION:

☐ YES ☒ NO

City Attorney

**EMPLOYEE OF THE MONTH
FOR
JULY 2011**

NAME: Michael Jensen

DEPARTMENT: Public Works - Engineering

HIRED: March 2002

PRESENT POSITION: Senior Engineering Technician

NARRATIVE: The City of Wichita Falls Public Works Department is honored to present Michael Jensen as the Employee of the Month for July. Mike is a Senior Engineering Technician within the Engineering Division. Mike started his career with the City of Wichita Falls in March 2002 working for the Street Department. Luckily, the Public Works Department was able to keep Mike by transferring him a few months later to the Engineering Division. Mike became a construction inspector and managed the laboratory testing on soil, concrete, and asphalt samples.

During the last five years, Mike has been in charge of the City of Wichita Falls Engineering Laboratory. Mike tests construction material samples that are taken on City projects and development construction to ensure that the materials meet City standards and American Society for Testing and Materials (ASTM) requirements. Mike also inspects all permitted construction in the City right-of-way, such as driveway approaches and utility installations. He maintains all laboratory records, testing results for the project records, and keeps up-to-date with current ASTM requirements. Mike's diversity and excellent organizational skills in the lab also allow him the flexibility to assist with daily construction inspections when project loads increase.

In addition, Mike was integral in the City of Wichita Falls Engineering Laboratory receiving accreditation certification from the American Association of State Highway and Transportation Officials in 2009. His hard work, knowledge, and experience were instrumental in earning this critical accreditation.

MARITAL STATUS: Mike's wife, Lisa, works for the City of Wichita Falls in the Parks Department. They have been married 31 years and have 2 children and 6 grandchildren ranging in age from 3 to 12.

HOBBIES: Mike and Lisa are very active in the First United Methodist Church of Iowa Park where Mike is a Lay Minister. In Mike's spare time, he enjoys fishing and spending quality time with his grandchildren.

CLOSING: Mike eagerly accepts new challenges and without a doubt has shown how vital he is to the Engineering Division and the City of Wichita Falls. His outstanding attitude and teamwork mentality makes him an enjoyable person to work with every day. Mike Jensen truly deserves this honor and through his hard work has earned the accomplishment of "Employee of the Month".

CITY COUNCIL AGENDA
July 5, 2011

ITEM/SUBJECT: Resolution Awarding the Bid For The Rehabilitation Of Lift Station No. 2 (CWF11-550-02) To Wichita Contractors, Inc., In An Estimated Total Amount Of \$78,410.00.

INITIATING DEPT: Public Works / Engineering

COMMENTARY: On June 21, 2011, bids were opened for the Rehabilitation of Lift Station No. 2 (CWF11-550-02). This project will rehabilitate the existing lift station by replacement of pumps, motors, control panel, and associated work located at 2922 Seymour Highway.

The bids received for this project are as follows:

<u>COMPANY</u>	<u>AMOUNT</u>
Wichita Contractors, Inc. - Wichita Falls, TX	\$78,410.00
Bowles Construction Co. - Wichita Falls, TX	\$87,500.00
J.S. Haren Co. - Athens, TN	\$95,750.00

Construction of this project should require approximately one hundred (100) consecutive days to complete.

Contractor references have been contacted and contractor experience verified. Staff recommends award of the contract to Wichita Contractors, Inc. in the amount of \$78,410.00, based on unit price quantities.

The engineer's estimate on this project was \$80,000.00.

☒ **Director, Public Works**

CITY MANAGER'S REMARKS: Annually, the City budgets to rehabilitate a few of its aging sanitary sewer lift stations. The 2010-11 budget includes \$210,000 to rehabilitate two of these lift stations. In November, an award of bid was approved for Lift Station 17 in the amount of \$121,000. Bids have been received for the second project, (Lift Station 2), and the low bidder is Wichita Contractors in the amount of \$78,410. It is recommended that this bid be awarded, which will complete the lift station repairs planned for this budget year.

☒ **City Manager**

ASSOCIATED INFORMATION: Resolution, Bid Tab, Location Map

CITY COUNCIL AGENDA
July 5, 2011

ITEM/SUBJECT: Resolution Awarding the Bid For The Rehabilitation Of Lift Station No. 2 (CWF11-550-02) To Wichita Contractors, Inc., In An Estimated Total Amount Of \$78,410.00.

INITIATING DEPT: Public Works / Engineering

BUDGET CERTIFICATION (Account No. / Amount) (550-8145-77220) / (\$78,410.00)

☒ **Budget Office Review**

LEGAL CERTIFICATIONS:

☒ **APPROVED AS TO FORM:**

CODIFICATION:

☐ YES ☒ NO

City Attorney

RESOLUTION NO. _____

**Resolution Awarding The Bid For The Rehabilitation Of Lift Station
No. 2 (CWF11-550-02) To Wichita Contractors, Inc., In An Estimated
Total Amount Of \$78,410.00.**

WHEREAS, the City of Wichita Falls has advertised for bids for the Rehabilitation of Lift Station No. 2 (CWF11-550-02); and

WHEREAS, the City Council finds that the lowest responsible bidder is Wichita Contractors, Inc., which made a unit price bid in an estimated total amount of \$78,410.00.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WICHITA FALLS, TEXAS, THAT:

The unit price bid for the Rehabilitation of Lift Station No. 2 (CWF11-550-02) is awarded to Wichita Contractors, Inc., in an estimated total amount of \$78,410.00, and the City Manager is authorized to execute a contract for the City with said Contractor for the construction of such project.

PASSED AND APPROVED this the 5th day of July, 2011.

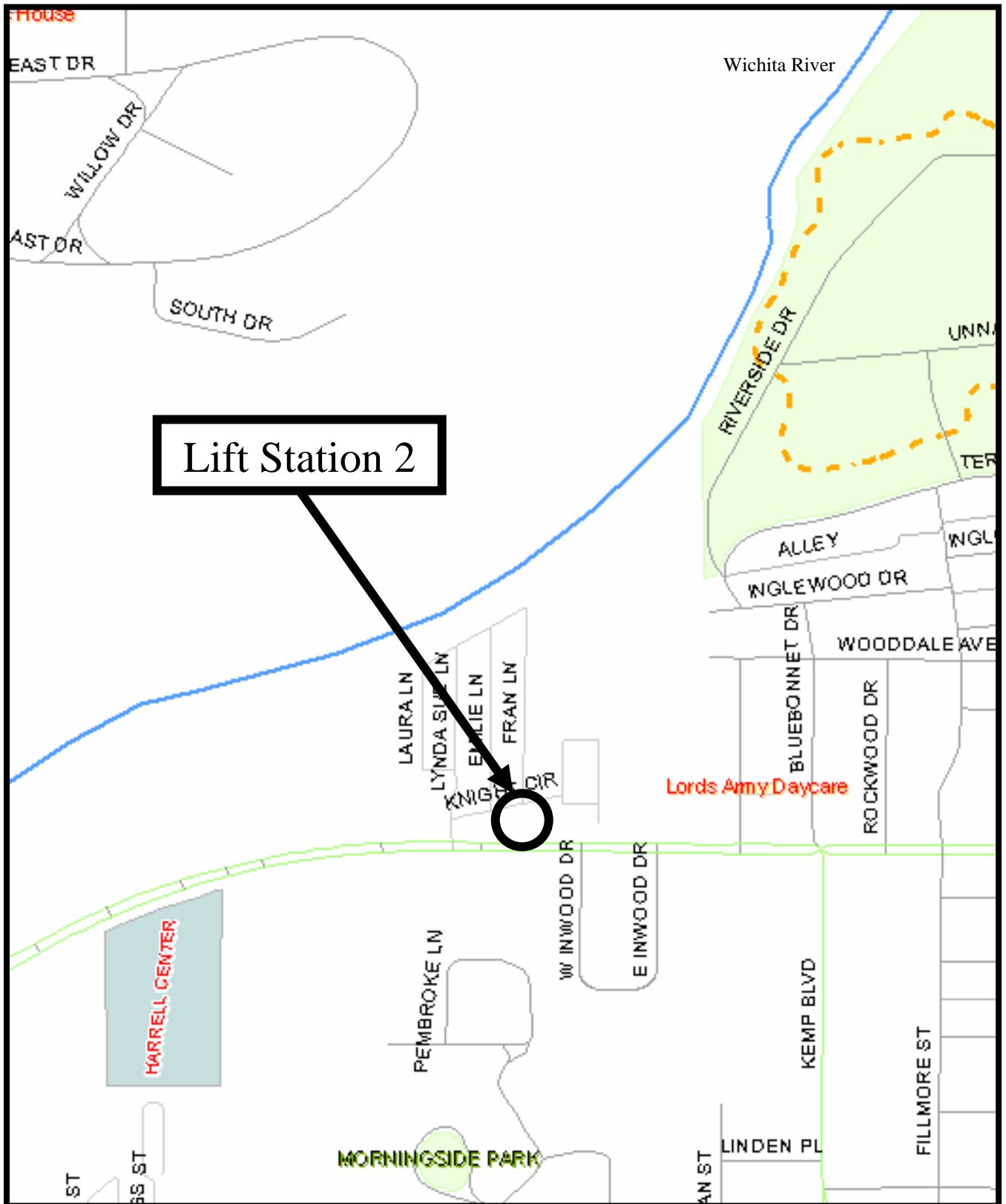
MAYOR

ATTEST:

City Clerk

BID TABULATION										
PROJECT: Rehabilitation of Lift Station No. 2										
CWF11-550-02										
BID DATE: 06.21.11										
EST.					Wichita Contractors Inc.		Bowles Construction Co.		J.S. Haren Co.	
					Wichita Falls, TX		Wichita Falls, TX		Athens, TN	
ITEM	DESCRIPTION	QUANT.	UNIT	UNIT PRICE	BID	UNIT PRICE	BID	UNIT PRICE	BID	
200-1	Mobilization	1	LS	\$3,700.00	\$3,700.00	\$3,500.00	\$3,500.00	\$10,750.00	\$10,750.00	
600-CP	Control Panel Replacement	1	LS	\$16,480.00	\$16,480.00	\$16,000.00	\$16,000.00	\$15,000.00	\$15,000.00	
600-DE	Discharge Elbow Replacement	2	EA	\$6,275.00	\$12,550.00	\$3,000.00	\$6,000.00	\$21,000.00	\$42,000.00	
600-PM	Pump and Motor Replacement	2	EA	\$20,000.00	\$40,000.00	\$27,000.00	\$54,000.00	\$11,500.00	\$23,000.00	
600-VL	Vault Lid With Integral Access Door	1	LS	\$4,180.00	\$4,180.00	\$6,000.00	\$6,000.00	\$4,000.00	\$4,000.00	
600-VP	Vent Pipe Replacement	1	LS	\$1,500.00	\$1,500.00	\$2,000.00	\$2,000.00	\$1,000.00	\$1,000.00	
TOTAL BASE BID					\$78,410.00		\$87,500.00		\$95,750.00	

Location Map



**CITY COUNCIL AGENDA
JULY 5, 2011**

ITEM/SUBJECT: Resolution Awarding Bid For The City's Estimated Annual Requirement Of Automotive Lubricating Oils And Grease To Western Marketing, Inc., In The Amount Of Approximately \$138,332.25

INITIATING DEPT: Finance/Purchasing

COMMENTARY: Bids were opened June 20, 2011 for the purchase of the City's estimated annual requirement of automotive lubricating oil and grease used by the Fleet Maintenance Division. Four bids were received (bid tabulation attached).

Lubrication products are bid for a one-year contract, with a one-year renewal option. The City elected not to renew with its existing Contractor because of problems with timely delivery. This year's bid includes the synthetic products which are intended to help protect critical engine parts, runs cleaner and longer between oil changes reducing maintenance costs. Last year, the estimated annual bid amount was \$104,360, but this current bid is more closely aligned with other bidders received last year. Staff has evaluated the proposed bid prices and believe that they are competitive.

Therefore, staff recommends award of bid the City's estimated annual requirement of automotive lubricating oils and grease to Western Marketing, Inc. in the amount of \$138,322.25.

☒ Purchasing Agent
☒ Asst City Manager/CFO

☒ Director Traffic, Transportation, Aviation

CITY MANAGER'S REMARKS: Bids have been received for the City's estimated annual requirements of automotive lubricating oils and grease for its vehicle fleet. Four bids were received and it is recommended that the award of bid be made to the lowest bidder. The City has conducted business with Western Marketing in the past and they have proven to be a reputable dealer. The estimated annual cost for these products is \$138,322.25.

☒ **City Manager**

ASSOCIATED INFORMATION: Resolution / Bid Tabulation

BUDGET CERTIFICATION (Account No./ Amount) (100-7250-70000) / (\$138,322.25)
Ordered on an as-needed basis.

☒ **Budget Office Review**

LEGAL CERTIFICATIONS:

☒ **APPROVED AS TO FORM:**

CODIFICATION:

☐ YES ☒ NO

City Attorney

RESOLUTION NO. _____

Resolution Awarding Bid For The City's Estimated Annual Requirement Of Automotive Lubricating Oils And Grease To Western Marketing, Inc., In The Amount Of Approximately \$138,332.25

WHEREAS, the City of Wichita Falls advertised and requested bids for the purchase of the City's annual requirement of automotive lubricating oils and grease; and

WHEREAS, bids were received and publicly opened on June 20, 2011, and Western Marketing, Inc. was the overall lowest responsible bidder; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WICHITA FALLS, TEXAS, THAT:

Authorization is granted to award the bid for the purchase of lubricating oils and grease to Western Marketing, Inc., in accordance with the attached **Bid Tabulation**, in an estimated annual amount of \$138,322.25.

PASSED AND APPROVED this the 5th day of July, 2011.

MAYOR

ATTEST:

City Clerk

BID 11-24									
2011 Lubricating Oils / Grease									
Tabulation									
DESCRIPTION	WESTERN MARKETING		WINDWARD PETROLEUM		UNIVERSAL LUBRICANTS		OLMSTEAD OIL		SHIPPING UNIT
	UNIT	EXT COST	UNIT	EXT COST	UNIT	EXT COST	UNIT	EXT COST	
SYNTHETIC BLEND MOTOR OIL 5W30	\$ 6.89	\$ 17,225.00	\$ 6.42	\$ 16,050.00	\$ 6.850	\$ 17,125.00	\$ 7.79	\$ 19,475.00	BULK
SYNTHETIC BLEND MOTOR OIL 15W40	7.71	\$ 19,275.00	7.51	18,775.00	7.220	18,050.00	9.89	24,725.00	BULK
SYNTHETIC BLEND MOTOR OIL 5W30	7.44	\$ 4,092.00	6.73	3,701.50	7.050	3,877.50	7.79	4,284.50	DRUM
SYNTHETIC BLEND MOTOR OIL 15W40	8.21	\$ 9,031.00	7.82	8,602.00	7.420	8,162.00	9.89	10,879.00	DRUM
SYNTHETIC BLEND MOTOR OIL ENGINE OIL 5W30	1.95	\$ 468.00	2.94	705.60	2.666	639.84	2.37	568.80	CASE
SYNTHETIC BLEND MOTOR OIL 15W40	8.80	\$ 1,056.00	12.36	1,483.20	2.830	339.60	12.84	1,540.80	CASE
ENGINE OIL, SAE 5W30, DELO OR ROTELLA	7.45	\$ 2,868.25		-	7.400	2,849.00	7.71	2,968.35	DRUM
ENGINE OIL, SAE 15W40, DELO OR ROTELLA	8.01	\$ 4,405.50	11.35	6,242.50	8.200	4,510.00	8.27	4,548.50	DRUM
ENGINE OIL, SAE 10W	8.17	\$ 4,493.50	11.24	6,182.00	6.650	3,657.50	7.23	3,976.50	DRUM
ENGINE OIL, SAE 10W	8.17	\$ 4,493.50	11.24	6,182.00	6.450	3,547.50	6.69	3,679.50	BULK
ENGINE OIL, SAE 30W	2.16	\$ 907.20	2.15	903.00	2.170	911.40	3.32	1,394.40	CASE
ENGINE OIL, SAE 30W	6.83	\$ 1,502.60	11.24	2,472.80	7.000	1,540.00	7.95	1,749.00	DRUM
HYDRAULIC OIL, ISO 68	6.78	\$ 2,983.20	6.28	2,763.20	6.500	2,860.00	6.09	2,679.60	DRUM
HYDRAULIC OIL, ISO 68	6.28	\$ 15,700.00	5.87	14,675.00	6.200	15,500.00	6.09	15,225.00	BULK
GEAR LUBE, SAE 80W90, 120 LB	1.52	\$ 547.20	1.51	543.60	1.490	536.40	1.59	572.40	DRUM
GEAR LUBE, SAE 85W140, 120 LB	1.73	\$ 2,076.00	1.75	2,100.00	1.334	1,600.80	1.66	1,992.00	DRUM
TRACTOR HYDRAULIC FLUID PTIII	7.32	\$ 4,026.00	6.54	3,597.00	7.000	3,850.00	6.54	3,597.00	DRUM
TRANSMISSION FLUID, DEXTRON III	1.93	\$ 463.20	2.17	520.80	2.500	600.00	2.32	556.80	CASE
TRANSMISSION FLUID, TES 295 SPEC., TRANSYND SYNTHETIC	13.51	\$ 24,318.00	22.32	40,176.00	33.070	59,526.00	25.00	45,000.00	BULK
TRANSMISSION FLUID, TES 295 SPEC., TRANSYND SYNTHETIC	13.51	\$ 14,861.00	22.32	24,552.00	33.273	36,600.30	25.00	27,500.00	DRUM
TRANSMISSION FLUID, MERCON V	8.99	\$ 988.90	13.84	1,522.40	13.598	1,495.78	10.49	1,153.90	DRUM
TRANSMISSION FLUID, MERCON V	2.88	\$ 691.20	4.71	1,130.40	4.022	965.28	3.89	933.60	CASE
LITHIUM COMPLEX GREASE, EP2, 120 LB	1.55	\$ 1,860.00	2.23	2,676.00	2.000	2,400.00	1.75	2,100.00	DRUM
TEXAS USED OIL FEE \$.04/GAL			0.04	632.20					
		\$ 138,332.25		\$ 166,188.20		\$ 191,143.90		\$ 181,099.65	

MINUTES
BOARD OF ADJUSTMENT

March 16, 2011

PRESENT:

Elvin Dudley, Acting Chairman
Jerry Beavers
Jose Garcia
Kerry J. Maroney
Chad Hughes

◇ Members
◇
◇
◇
◇ Alternate #1

David Lane
Paul Walmsley

◇ Alternate #2
◇ Alternate #4

Miles Risley, City Attorney

◇ Legal Dept.

Norm Standerfer, Director of Community Development
Leo Bethge, Planner II
Diane Parker

◇ City Staff
◇
◇

ABSENT:

Dustin Nimz
Dara Forbes

◇ Members
◇ Alternate #3

RECEIVED IN
CITY CLERK'S OFFICE

DATE: 6-15-11

BY: LP TIME: 2:30pm

I. CALL TO ORDER

Chairman Dudley called the meeting to order at 1:40 p.m. It was noted for the minutes that Chad Hughes, Alternate #1, was sitting in the place of an absent regular member.

II. REGULAR AGENDA

- 1. Case V 11-04**
Request for a variance to reduce the side setback from 25 feet to 21 feet to accommodate an accessory building
2805 York Street

The Highland Heights Baptist Church, applicant, is requesting a variance from the Subdivision Ordinance to reduce the side yard setback for a lot within a Limited Commercial District (LC) from 25 feet to 21 feet. This lot is currently used for church parking. The church is located at 3003 York Street. They are proposing to construct a new building, 24' x 30', on this lot for parking and storage of their church bus. LC

zoning allows for non-residential uses; however, the setback along Hayes Street should be 25 feet.

Mr. Bethge stated that eighteen (18) surrounding property owners were notified of this request. No (0) responses were received.

Qualifying Criteria:

a. The applicant stated this 50' x 150' lot was residential but had been rezoned to Limited Commercial.

Staff believes a special circumstance exists for the permitted non-residential use of a bus barn.

b. The applicant explained the west side of Hayes is zoned residential with 15 foot side setbacks. Limited Commercial requires a side setback of 25 feet for commercial uses.

Staff noted a special condition may exist because a 25 foot setback would utilize half the lot thus limiting development.

c. The applicant noted this block on Hayes has no commercial development; the west side of Hayes is residential.

Staff commented this area was zoned after development which included a mixture of residential and commercial uses. Many of the commercial lots do not conform to the 25 foot side yard setback as noted by the lot immediately south, 2608 Grant Street.

d. The applicant noted this is currently a parking lot for the church. Vandalism and damages to the bus caused the church to pursue constructing a garage on this property.

Staff felt an accessory building for the church would be compatible with the surrounding neighborhood since there is another accessory building in the same block.

Mr. Frank Smith from the church was present and available to answer questions.

A motion to accept the Qualifying Criteria was made; Mr. Garcia seconded. The vote was five (5) in favor and none (0) opposed in favor of acceptance. Alternates Lane and Walmsley did not participate in the voting.

Evaluation Criteria:

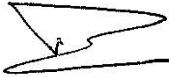
Mr. Bethge reviewed the Evaluation Criteria with the Board. In summary, this variance would provide protection and safety for the church vehicles as well as being harmonious with the ordinance and surrounding neighborhood.

Mr. Hughes made a motion to grant the variance; Mr. Beaver seconded. The vote was

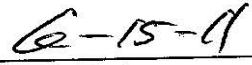
unanimous in favor. Alternates Lane and Walmsley did not participate in the voting.

IV. Adjourn

The meeting adjourned at 1:52 p.m.



Dustin Nimz, Chairman



Date

**MINUTES
LANDMARK COMMISSION**

MAY 24, 2011

MEMBERS PRESENT:

Christy Graham, Chairperson
Stacie Flood
John Kidwell
Scott Stillson
Steve Wood

■ Members

■

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■

■

Karen Montgomery-Gagné, Planner III
Leo Bethge, Planner II

■ Staff

■

GUESTS:

James Wetherbee
Collin Johnson

■

■

ABSENT:

Marilyn Carper
Cindy Cotton
Michael Koen
Andy Lee
Diane Thueson
Councilor Michael Smith, Council Liaison

■ Members

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Norman Standerfer, Director of Community Development

■ Staff

I. CALL TO ORDER & INTRODUCTIONS

Chairperson Graham opened the Landmark Commission meeting at 12:20 p.m. after obtaining quorum. In attendance were Mr. James Wetherbee, owner of 1300 Tilden, and his designer/builder, Mr. Collin Johnson.

II. REVIEW AND APPROVAL OF MINUTES FROM APRIL 25th & APRIL 26th, 2011

Chairperson Graham requested the Commission review both the April 25th and April 26th meeting minutes. Ms. Flood motioned to approve the April 25th and April 26th, 2011 Landmark Commission minutes as presented, motion seconded by Mr. Wood. Motion passed unanimously.

III. APPLICATION FOR DESIGN REVIEW – 1300 TILDEN (Cabana, pool & flower/garden building)

Ms. Gagné introduced the applicant, Mr. James Wetherbee, owner of 1300 Tilden, and his designer/builder, Mr. Collin Johnson. She explained even though the proposed cabana, pool and flower/garden building (potting shed) will be located in the rear yard behind the fence, they will still be visible from three streets – 10th, Hayes and Avenue D. In order to be consistent, she felt this matter should be brought to the Landmark Commission for review and approval. Ms. Gagné signed-off for the ground work associated with the swimming pool since it will not be visible with the existing brick fence. She referred members to the plat and sketch for the proposed structures and uses for the site, along with discussing the landscape design sketch for the pool and cabana. Mr.

Johnson stated the buildings will match the house brick, to be laid in a Flemish bond, and accented with stone. The cabana building will feature arches since it will be an open, except for the restroom. The roof, however, will not consist of the same green tile roof as the house. Mr. Johnson explained he will use a green standing steel seam roof which will create the same profile as the house roof. He agreed, as the designer, the cabana roof should match as closely as possible with the original house roof style. Mr. Kidwell questioned the height of the existing fence. Mr. Johnson stated the fence is 6 feet tall and will seem higher based on the elevation of the area. In comparison, the height of the cabana roof is planned at 15 feet. Mr. Wetherbee noted the rear fence line is slightly taller at 7 feet.

Mr. Wood questioned the standing seam roof, if they had considered a composite slate roof. Mr. Johnson recommended the use of original materials, to complement the 1920s design and materials of copper and bronze, but noted the cost difference was astronomical. The new roofing system will comprise the same look - to include linear standing seams every 3 feet. He further stated the potting shed will also reflect the cabana roof, just at a smaller size of 8 feet x 12 feet.

Ms. Gagné concluded that she appreciated working with Mr. Wetherbee and Mr. Johnson. The level of application detail and submittal of plans prior to the Commission's review was both helpful and very much appreciated. Mr. Kidwell motioned to approve the plan, as presented, by the applicant and designer/builder. Mr. Stillson seconded the motion. Motion passed unanimously. Mr. Wetherbee thanked the Commission and explained he wanted to ensure the new construction matched the historic house. He stated his family really enjoys the house.

IV. REVIEW, DISCUSS & COMMENT – SECTION 106 REVIEW – proposal to alter the antenna/equipment mounted to the Attebury grain elevator to enable Long Term Evolution (LTE) wireless technology

Chairperson Graham reviewed the Section 106 request from the consultant to alter the antennas and equipment mounted on top of the Attebury grain elevator. Ms. Gagné stated the consultant, GSS, Inc. Integrated Environmental Solution, just returned her phone request for more information prior to this meeting. A company representative stated US Cellular will add two new antennas and replace one. In sum, there will be five antennas at a height of 8 feet tall. She stated, per the letter provided by GSS, the modifications are intended to enable Long Term Evolution (LTE) wireless broadband technology. The modifications will be consistent with the antennas currently mounted on the grain elevator, with no significant visual impact to the structure, or to the surrounding neighborhood.

Ms. Gagné stated the Attebury grain elevator is not designated as a historic structure, though the building has been in existence for decades. She asked if the Commission had any comments since she is required to follow up with the consultant. Mr. Stillson questioned if the ratio of the height of the structure will be consistent with the height of the antennas. Mr. Wood commented that is the case and part of the reason supporting a need for more comprehensive design guidelines – currently the Commission doesn't have authority to limit such antennas since there are no limitations for ratios to building width. Ms. Flood questioned if these antennas were similar to the antennas on the Hamilton Building. Members discussed and agreed this was a similar situation. Mr. Wood motioned to approve the Section 106 Review for the location of two new antennas and one replacement on the Attebury grain elevators. Mr. Kidwell seconded the motion. Motion passed unanimously.

V. UPDATE & DISCUSSION REGARDING CLG PROJECT – DESIGN GUIDELINES UPDATE, QUESTIONNAIRES, AND QUARTERLY REPORT SUBMITTAL

Ms. Gagné provided copies of the grant quarterly update for THC reporting of progress with HHM, Inc. Meetings were held in February along with a public forum in April combined with a Landmark Commission meeting to obtain feedback from the public and conduct field work. As of May 23rd the Planning Division had received 36 completed design review questionnaires. The Commission discussed how they could obtain additional feedback by working with other organizations and

committees through the city. Mr. Kidwell stressed the use of the city webpage to gain better responses. Ms. Gagné stated Ms. Payne from HHM has not contacted the Planning Division yet, so there is still time remaining to receive a few additional responses.

Ms. Gagné discussed how the revised International Existing Building Code (IEBC) related to the revised design guidelines, i.e., ADA compliance and Building Codes. She stressed time is of the essence in this review since the matter goes to City Council on June 21st. The committee reviewing the proposed draft of the IEBC is considering retaining the date of 1936, or prior, when a house could be considered as "historic." She recommended additional information be incorporated into the draft of the energy code section to address window replacements in historic properties. She is currently in discussion with the city attorney in re-constructing a broad statement, as recommended by the Texas Historical Commission (THC), to address revisions to the proposed IEBC Code adoption as it relates to historic structures. This broad statement is from an excerpt of Chapter 34, from the 2000 version of the IBC, which states the following: *"The provisions of this Code relating to the construction, repair, alteration, addition, restoration, and movement of structures, and changes of occupancy shall not be mandatory for historic buildings, where such buildings are judged by the building official to not constitute a distinct life safety hazard."*

Ms. Flood stated there is no review process for historic places nominated for the National Register, i.e., possibly the Morningside neighborhood. Mr. Stillson questioned how to define "distinct life safety hazard." Mr. Wood responded, by not jeopardizing the health and safety standards of the city (Fire Department/Building Code). Ms. Gagné stated she wanted to give Building Inspection latitude for building review, however, residents get caught in the middle between Landmark requirements and Code compliance, incorporating this statement from THC/IBC can "bridge" the Code gap on how to address historic buildings.

Chairperson Graham stated a building, or district, needs to be nominated first – to be designated, such as with Depot Square. What's important here is downtown buildings still need to follow fire safety standards. Mr. Wood added historic buildings need to comply with the revised IEBC, based on the recommendation of the building official, and yet the question is how to address the needs of the design guidelines to better preserve historic buildings.

Ms. Gagné discussed the future name of the design guidelines. Ms. Flood referenced the names of other cities that have adopted design guidelines. Mr. Wood stated property owners will need to comply with the local design guidelines, so it should be called that. Ms. Gagné requested clarification from the Commission for naming the report "City of Wichita Falls Design Guidelines." Members were in agreement.

Ms. Flood addressed a concern, if a building is not designated as historic by a certain timeframe, it would defeat the purpose of the revised building code, such as the energy code as it relates to new windows. Ms. Gagné added that planning staff is not involved in re-writing the building code, though has raised concerns about adding a date to better address the inclusion of historic buildings, i.e., 1936 or prior, or if the building retains a national, state or local designation. Ms. Flood recommended a revised date of 1945 to include buildings constructed up to the end of the World War II era, prior to the start of home pre-fabrication, and/or national, state or local designations. She further mentioned The Secretary of the Interior standards state any building fifty years or older could be nominated. Ms. Gagné noted this may be an issue if the 50-year clause is used since that date is 1961. The city attorney may not allow this since the majority of the city's housing stock was built prior to 1961. Mr. Stillson questioned the date of 1936, or prior, for the jurisdiction of the Landmark Commission. Mr. Wood stated that any building built after 1936, or 1945, would then need to comply with the revised IEBC, i.e., the revised energy code as it relates to the use of new windows. Mr. Wood continued, by noting he's concerned with how the building official, according to the broad THC statement, will define or override this statement. In summary, Ms. Gagné stated the Commission recommended incorporating the date of 1945 while maintaining a clause "and/or if designated historic" rather than using the 50-year historic timeframe. She will re-draft this

statement and incorporate the 1945 date and forward to the city attorney and building official for the revised IEBC. She summarized the re-drafting of the THC statement, as she hoped to avoid another home owner getting caught up in the building code issue if opting to use local craftsman in order to retain the original aesthetics of a historic building. Members were in agreement that there needs to be a "clause" incorporated into the City's adopted Building Codes that authorizes the Chief Building Official latitude to interpret the various Codes for designated, historic structures – as long as no health/safety issues are violated.

VI. OTHER BUSINESS

Ms. Gagné discussed the *Downtown Denton Rehabilitation Tips*, noted in one of the hand-outs as additional rehab information.

She stated there is no meeting in July, though another public forum will be scheduled for either late July or August. She recommended for the Landmark Commission to review the draft of the design guidelines and discuss at the June Landmark Commission meeting prior to the next public forum.

She further asked the Commission if they had any pending projects of interest to submit for the FY 2012 grant application round. THC had requested "Letters of Intent" from all CLG communities by July 31st (such as revising the Preservation Plan - completed in 1982) if interested in applying for a grant. The historic resource inventory is used to identify buildings worth saving and the Wichita Falls plan is overdue for an update. THC recommends communities update their plans every 10-15 years. Members were in agreement with requesting funds for a Preservation Plan update.

Ms. Gagné provided a Texas Legislative update noting the House Appropriations Committee retained a basic level of funding for THC. The next step is to see if the Governor will also retain these same funding levels or a portion as part of the final state budget.

There were no updates from the West Floral Heights Neighborhood Association.

Ms. Gagné provided a copy of an article expressing the mission of Habitat for Humanity, as provided by Ms. Flood. The article is from *The Forum Journal*, a periodical the Wichita County Heritage Society receives.

VII. ADJOURN

Chairperson Graham stated the next regular meeting is scheduled for June 28th at 12:00 p.m. She adjourned the meeting at 1:28 p.m.

Christy Graham
Chairperson Graham

6-28-11
Date

CITY COUNCIL AGENDA
July 5, 2011

ITEM/SUBJECT: Ordinance Repealing Section 82-103 Of The Code Of Ordinances, Which Currently Restricts Fishing In Ponds In South Weeks Park To Catch And Release

INITIATING DEPT: Parks & Recreation

COMMENTARY: Ordinance 82-103 was approved by City Council in 2002. It was a recommendation of the NW Texas Field & Stream Association. The purpose is to limit fishing in the then existing dirt bottom pond to catch and release. A reason was that it was deemed undesirable for the Association to purchase fish and stock the fish in the pond specifically for their youth only program and then permit adults to catch and take home the fish. With the filling in of the dirt bottom pond and the construction of the new and larger pond next to Southwest Parkway, it now seems appropriate to allow citizens to catch and keep fish that they catch. It has been observed that most citizens fishing at the new pond do catch and keep fish caught. The Parks & Wildlife Department's preference is to periodically stock the pond if the pond has a catch and keep fishing policy. The Association is agreeable to rescinding Ordinance 82-103 because the new pond is so much larger than the former pond and so many more fish are available, making the conditions now different.

Staff recommends approval. The Park Board considered this action during their meeting 23Jun11 and a subsequent telephone poll of non attending members 27Jun11 and recommends rescinding the ordinance.

☒ **Director of Parks & Recreation**

CITY MANAGER'S REMARKS: As mentioned in the above commentary, this Ordinance will remove language in the City's Code of Ordinances that prohibits keeping fish that are caught in the South Weeks Park Pond. Now that the pond has been expanded and is being stocked with fish periodically, it seems appropriate to allow fish to be kept as opposed to releasing them back into the pond. This policy will now be the same as the City's other public fishing pond in Plum Creek. It is recommended for approval.

☒ **City Manager**

ASSOCIATED INFORMATION: Ordinance

BUDGET CERTIFICATION (Account No./ Amount) (- -) / ()

☐ **Budget Office Review**

LEGAL CERTIFICATIONS:

☒ **APPROVED AS TO FORM:**

CODIFICATION:

☒ **YES** ☐ **NO**

City Attorney

ORDINANCE NO. _____

**Ordinance Repealing Section 82-103 Of The Code Of Ordinances,
Which Currently Restricts Fishing In Ponds In South Weeks Park To
Catch And Release**

WHEREAS, Section 82-103 of the Code of Ordinances of the City of Wichita Falls was approved in 2002 to limit fishing at the South Weeks Park Pond to catch and release for the benefit of the youth fishing programs of the NW Texas Field & Stream Association; and

WHEREAS, a new and larger pond has been constructed, making the conditions different from that necessitating Ordinance 82-103, and thereby allowing fish to be retained that are caught therein.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WICHITA FALLS, TEXAS, THAT:

Section 82-103 of the Code of Ordinances of the City of Wichita Falls is repealed and reserved.

PASSED AND APPROVED this the 5th day of July, 2011.

M A Y O R

ATTEST:

City Clerk

CITY COUNCIL AGENDA
July 5, 2011

ITEM/SUBJECT: Ordinance Amending Chapters 22 And 50 Of The Code Of Ordinances Of The City Of Wichita Falls To Adopt And Amend Portions Of The 2009 International Building Code, Plumbing Code, Mechanical Code, Fuel Gas Code, Residential Code, Existing Building Code, And Fire Code, And The 2006 International Energy Conservation Code; Providing For A Penalty Not To Exceed \$2,000 Per Violation; And Providing For Codification

INITIATING DEPT: Community Development /Building and Code Administration

COMMENTARY: This ordinance will adopt 2009 International Codes, updated from the 2006 versions, including the International Building Code (IBC), International Plumbing Code (IPC), International Mechanical Code (IMC), the International Fuel Gas Code (IFGC), International Residential Code (IRC), International Existing Building Code (IEBC) and the International Fire Code (IFC). These have been reviewed by individual committees of local construction professionals for several months.

Adoption of these 2009 Codes has been recommended unanimously by the Construction Board of Adjustment and Appeals and the various committees. A special meeting with the Downtown Association was held to also review the Existing Building Code.

Since the 2009 International Codes are being primarily adopted by reference, proposed revisions concentrate on maintaining the local administrative details. Rather than modify the administrative section in each code, we have combined the administrative section details of each code (excluding the Fire Code, which has separate administrative processes) into one chapter. That chapter was written to reflect the Building and Code Administration Division's long-standing local administrative requirements, which include permits and exemptions, contractor registration, insurance and bonding regulations, the existence and authority of the Construction Board of Adjustment and Appeals, the authority of the Building and Code Administrator, and inspection processes. These methods of administration have been in existence through the last several code adoptions, and were created through discussions including a special joint meeting of the City Council and the Construction Board of Adjustment and Appeals in 2002. Although the adoption of one unified administrative chapter is a shift in the design of the ordinance, there are no changes to the current administrative procedures and requirements as set forth in previous adoptions. (To distinguish it from state licensing requirements, contractor "licensing" has been renamed contractor "registration," but it is still the same procedure.) These administrative procedures represent the best efforts of Building and Code Administration and Legal staff to administer both the local codes and the coexisting and sometimes complex state laws that govern these issues.

CITY COUNCIL AGENDA
July 5, 2011

ITEM/SUBJECT: Ordinance Amending Chapters 22 and 50 of the Code Of Ordinances of the City of Wichita Falls to adopt and amend portions of the 2009 International Building Code, Plumbing Code, Mechanical Code, Fuel Gas Code, Residential Code, Existing Building Code, Fire Code, and the 2006 International Energy Conservation Code, Providing For A Penalty Not To Exceed \$2,000 Per Violation; And Providing For Codification.

INITIATING DEPT: Community Development /Building and Code Administration

COMMENTARY (Cont.):

Other changes within this Ordinance again consider local policies that have been previously adopted. They include:

- ❖ Maintaining permit requirements, exceptions, registration, insurance regulations, and other procedures that are part of our Municipal Code.
- ❖ A "Restoration Permit" to allow work on buildings which have otherwise been designated as dangerous by Council. This permit provides for time limits and eliminates any confusion about rehabilitation that progresses too slowly.
- ❖ Utilizing floodplain regulations from the Municipal Code of Ordinances, rather than using the IBC generic wording. The current local ordinance has been approved by FEMA.

This ordinance amends Sections 22-26, 22-27, 22-481, 22-482, 22-511, 22-512, 22-571, 22-572, 22-700, 22-701, 22-710, 22-711, 50-61, and 50-62 of the Code of Ordinances of the City of Wichita Falls.

☒ Director of Community Development

CITY MANAGER'S REMARKS: In general, the City uses the International Building Codes, except where our staff and local contractors believe it makes more sense to deviate from those Codes to better meet local needs. Several months of work has been required to review the 2009 International Building Codes to determine where amendments to those International Codes are warranted for our local community. Each of the International Codes have been reviewed by staff and committees of contractors from each of the trade areas. The committees' recommendations have been reviewed and approved by the Construction Board of Adjustment and Appeals. This Ordinance is the now ready for Council consideration and is recommended for approval.

☒ **City Manager**

CITY COUNCIL AGENDA
July 5, 2011

ITEM/SUBJECT: Ordinance Amending Chapters 22 and 50 of the Code Of Ordinances of the City of Wichita Falls to adopt and amend portions of the 2009 International Building Code, Plumbing Code, Mechanical Code, Fuel Gas Code, Residential Code, Existing Building Code, Fire Code, and the 2006 International Energy Conservation Code, Providing For A Penalty Not To Exceed \$2,000 Per Violation; And Providing For Codification.

INITIATING DEPT: Community Development /Building and Code Administration

ASSOCIATED INFORMATION: Ordinance

BUDGET CERTIFICATION (Account No./ Amount) (- -) / ()

☐ **Budget Office Review**

LEGAL CERTIFICATIONS:

☒ **APPROVED AS TO FORM:**

CODIFICATION:

☒ **YES** ☐ **NO**

City Attorney

ORDINANCE NO. _____

Ordinance Amending Chapters 22 And 50 Of The Code Of Ordinances Of The City Of Wichita Falls To Adopt And Amend Portions Of The 2009 International Building Code, Plumbing Code, Mechanical Code, Fuel Gas Code, Residential Code, Existing Building Code, Fire Code, And The 2006 International Energy Conservation Code; Providing For A Penalty Not To Exceed \$2,000 Per Violation; And Providing For Codification

WHEREAS, the Construction Board of Adjustment and Appeals has recommended the adoption of the 2009 International Building Code, Plumbing Code, Mechanical Code, Fuel Gas Code, Residential Code, Existing Building Code, Fire Code, and the 2006 International Energy Conservation Code, as amended; and

WHEREAS, the City Council finds that adoption of these codes will protect public health and sanitation and fire safety of residents of the City of Wichita Falls.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WICHITA FALLS, TEXAS, THAT:

1. 2009 International Building Code

Sections 22-26 and 22-27 of the Code of Ordinances of the City of Wichita Falls are amended to read as follows:

Sec. 22-26. Adopted.

The following portions of the 2009 International Building Code, published by the International Code Council, are adopted by reference as though they were copied fully in this section: Chapters 2-33, and Appendices F, I, and J.

The following is hereby adopted as Chapter 1 of the Building Code and is intended to apply to all of the technical codes:

CHAPTER 1: SCOPE AND ADMINISTRATION

**SECTION 101
GENERAL**

101.1 Title.

These regulations shall be known as the Building Code of the City of Wichita Falls, Texas, hereinafter referred to as "this code." The provisions of the 2009 International Building Code, the 2009 International Existing Building Code, the 2009 International Fuel Gas Code, the 2009 International Mechanical Code, the 2009 International Plumbing Code, and the 2009 International Residential Code for One- and Two-Family Dwellings adopted by the City of Wichita Falls shall be known collectively as "the technical codes of the City of Wichita Falls," or "the technical codes."

101.2 Scope.

The provisions of the technical codes shall apply to the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, maintenance, removal and demolition of every building or structure or any appurtenances and systems connected or attached to such buildings or structures.

Exception: Detached one- and two-family dwellings and multiple single-family dwellings (townhouses) not more than three stories above grade plane in height with a separate means of egress and their accessory structures shall comply with the 2009 International Residential Code for One- and Two-Family Dwellings, also known as the 2009 International Residential Code.

101.2.1 Appendices.

Provisions in the appendices shall not apply unless specifically adopted.

101.3 Intent.

The purpose of the technical codes is to establish the minimum requirements to safeguard the public health, safety and general welfare through structural strength, properly installed and maintained systems, means of egress from facilities, stability, sanitation, adequate light and ventilation, energy conservation, and safety to life and property from fire and other hazards attributed to the built environment and to provide safety to fire fighters and emergency responders during emergency operations.

101.4 Referenced codes.

The other codes listed in Sections 101.4.1 through 101.4.6 and referenced elsewhere in this code shall be considered part of the requirements of this code to the prescribed extent of each such reference.

101.4.1 Gas.

The provisions of the 2009 International Fuel Gas Code shall apply to the installation of fuel gas piping systems, fuel gas appliances, gaseous hydrogen systems and related accessories in accordance with Sections 101.4.1.1 through 101.4.1.4.

101.4.1.1 Piping systems.

These regulations cover piping systems for natural gas with an operating pressure of 125 pounds per square inch gauge (psig) (862 kPa gauge) or less, and for LP-gas with an operating pressure of 20 psig (140 kPa gauge) or less, except as provided in Section 402.6 of the 2009 International Fuel Gas Code. Coverage shall extend from the point of delivery to the outlet of the appliance shutoff valves. Piping system requirements shall include design, materials, components, fabrication, assembly, installation, testing, inspection, operation and maintenance.

101.4.1.2 Gas appliances.

Requirements for gas appliances and related accessories shall include installation, combustion and ventilation air and venting and connections to piping systems.

101.4.1.3 Systems, appliances and equipment outside the scope.

The 2009 International Fuel Gas Code shall not apply to the following:

1. Portable LP-gas appliances and equipment of all types that are not connected to a fixed fuel piping system.
2. Installation of farm appliances and equipment such as brooders, dehydrators, dryers and irrigation equipment.
3. Raw material (feedstock) applications except for piping to special atmosphere generators.
4. Oxygen-fuel gas cutting and welding systems.

5. Industrial gas applications using gases such as acetylene and acetylenic compounds, hydrogen, ammonia, carbon monoxide, oxygen and nitrogen.
6. Petroleum refineries, pipeline compressor or pumping stations, loading terminals, compounding plants, refinery tank farms and natural gas processing plants.
7. Integrated chemical plants or portions of such plants where flammable or combustible liquids or gases are produced by, or used in, chemical reactions.
8. LP-gas installations at utility gas plants.
9. Liquefied natural gas (LNG) installations.
10. Fuel gas piping in power and atomic energy plants.
11. Proprietary items of equipment, apparatus or instruments such as gas-generating sets, compressors and calorimeters.
12. LP-gas equipment for vaporization, gas mixing and gas manufacturing.
13. Temporary LP-gas piping for buildings under construction or renovation that is not to become part of the permanent piping system.
14. Installation of LP-gas systems for railroad switch heating.
15. Installation of hydrogen gas, LP-gas and compressed natural gas (CNG) systems on vehicles.
16. Except as provided in Section 401.1.1 of the 2009 International Fuel Gas Code, gas piping, meters, gas pressure regulators and other appurtenances used by the serving gas supplier in the distribution of gas, other than undiluted LP-gas.
17. Building design and construction, except as specified therein.
18. Piping systems for mixtures of gas and air within the flammable range with an operating pressure greater than 10 psig (69 kPa gauge).
19. Portable fuel cell appliances that are neither connected to a fixed piping system nor interconnected to a power grid.

101.4.1.4 Other fuels.

The requirements for the design, installation, maintenance, alteration and inspection of mechanical systems operating with fuels other than fuel gas shall be regulated by the International Mechanical Code.

101.4.2 Mechanical.

The provisions of the 2009 International Mechanical Code shall apply to the installation, alterations, repairs and replacement of mechanical systems, including equipment, appliances, fixtures, fittings and/or appurtenances, including ventilating, heating, cooling, air-conditioning and refrigeration systems, incinerators and other energy-related systems.

101.4.3 Plumbing.

The provisions of the 2009 International Plumbing Code shall apply to the erection, installation, alteration, repair, relocation, replacement, addition to, use or maintenance of plumbing systems, including equipment,

appliances, fixtures, fittings and appurtenances, and where connected to a water or sewage system and all aspects of a medical gas system, as that term is defined by the 2009 International Plumbing Code. The International Plumbing Code shall also regulate nonflammable medical gas, inhalation anesthetic, vacuum piping, nonmedical oxygen systems and sanitary and condensate vacuum collection systems.

101.4.4 Fire prevention.

The provisions of the 2009 International Fire Code shall apply to matters affecting or relating to structures, processes and premises from the hazard of fire and explosion arising from the storage, handling or use of structures, materials or devices; from conditions hazardous to life, property or public welfare in the occupancy of structures or premises; and from the construction, extension, repair, alteration or removal of fire suppression and alarm systems or fire hazards in the structure or on the premises from occupancy or operation.

101.4.5 Energy.

The provisions of the 2006 International Energy Conservation Code shall apply to all matters governing the design and construction of buildings for energy efficiency.

101.5 Existing buildings.

The provisions of the 2009 International Existing Building Code shall apply to the repair, alteration, change of occupancy, addition and relocation of all existing buildings, regardless of occupancy, subject to the criteria of Sections 101.5.1 and 101.5.2.

101.5.1 Buildings not previously occupied.

A building or portion of a building that has not been previously occupied or used for its intended purpose in accordance with the laws in existence at the time of its completion shall comply with the provisions of the 2009 International Building Code or the 2009 International Residential Code, as applicable, for new construction or with any current permit for such occupancy.

101.5.2 Buildings previously occupied.

The legal occupancy of any building existing on the date of adoption of this code shall be permitted to continue without change, except as is specifically covered in the 2009 International Existing Building Code or the International Fire Code, or as is deemed necessary by the building official for the general safety and welfare of the occupants and the public.

101.5.3 Correction of violations of other codes.

Repairs or alterations to an existing building mandated by any property, housing, or fire safety maintenance code or mandated by any licensing rule or ordinance adopted pursuant to law shall conform only to the requirements of that code, rule, or ordinance and shall not be required to conform to the 2009 International Existing Building Code unless the code requiring repair or alteration so provides.

101.5.4 Compliance methods for existing buildings.

The repair, alteration, change of occupancy, addition or relocation of all existing buildings shall comply with one of the methods listed in Sections 101.5.4.1 through 101.5.4.3 as selected by the applicant. Application of a method shall be the sole basis for assessing the compliance of work performed under a single permit unless otherwise approved by the building official. Sections 101.5.4.1 through 101.5.4.3 shall not be applied in combination with each other. Where this code requires consideration of the seismic-force-resisting system of an existing building subject to repair, alteration, change of occupancy, addition or relocation of existing buildings, the seismic evaluation and design shall be based on Section 101.5.4.4 regardless of which compliance method is used.

Exception: Subject to the approval of the building official, alterations complying with the laws in existence at the time the building or the affected portion of the building was built shall be considered in compliance with the provisions of the 2009 International Existing Building Code unless the building is undergoing more than a limited structural alteration as defined in Section 807.4.3 of the 2009 International Existing Building Code. New structural members added as part of the alteration shall comply with the 2009

International Building Code. Alterations of existing buildings in flood hazard areas shall comply with Section 601.3 of the 2009 International Existing Building Code.

101.5.4.1 Prescriptive compliance method.

Repairs, alterations, additions and changes of occupancy complying with Chapter 3 of the 2009 International Existing Building Code in buildings complying with the 2009 International Fire Code shall be considered in compliance with the provisions of the 2009 International Existing Building Code.

101.5.4.2 Work area compliance method.

Repairs, alterations, additions, changes in occupancy and relocated buildings complying with the applicable requirements of Chapters 4 through 12 of the 2009 International Existing Building Code shall be considered in compliance with the provisions of the 2009 International Existing Building Code.

101.5.4.3 Performance compliance method.

Repairs, alterations, additions, changes in occupancy and relocated buildings complying with Chapter 13 of the 2009 International Existing Building Code shall be considered in compliance with the provisions of the 2009 International Existing Building Code.

101.5.4.4 Evaluation and design procedures.

The seismic evaluation and design shall be based on the procedures specified in the International Building Code, ASCE 31 or ASCE 41. The procedures contained in Appendix A of this code shall be permitted to be used as specified in Section 101.5.4.4.2.

101.5.4.4.1 Compliance with IBC level seismic forces.

Where compliance with the seismic design provisions of the 2009 International Building Code is required, the procedures shall be in accordance with one of the following:

1. The 2009 International Building Code using 100 percent of the prescribed forces. The values of R, W0 and Cd used for analysis in accordance with Chapter 16 of the 2009 International Building Code shall be those specified for structural systems classified as "Ordinary" in accordance with Table 12.2-1 of ASCE 7, unless it can be demonstrated that the structural system satisfies the proportioning and detailing requirements for systems classified as "Detailed," "Intermediate" or "Special."
2. Compliance with ASCE 41 using both the BSE-1 and BSE-2 earthquake hazard levels and the corresponding performance levels shown in Table 101.5.4.4.1.

TABLE 101.5.4.4.1: PERFORMANCE CRITERIA FOR IBC LEVEL SEISMIC FORCES

OCCUPANCY CATEGORY (Based on IBC Table 1604.5)	PERFORMANCE LEVEL FOR USE WITH ASCE 41 BSE-1 EARTHQUAKE HAZARD LEVEL	PERFORMANCE LEVEL FOR USE WITH ASCE 41 BSE-2 EARTHQUAKE HAZARD LEVEL
I	Life safety (LS)	Collapse prevention (CP)
II	Life safety (LS)	Collapse prevention (CP)
III	Note a below	Note a below
IV	Immediate occupancy (IO)	Life safety (LS)

- a. Acceptable criteria for Occupancy Category III shall be taken as 80 percent of the acceptance criteria specified for Occupancy Category IV performance levels.

101.5.4.4.2 Compliance with reduced IBC level seismic forces.

Where seismic evaluation and design is permitted to meet reduced 2009 International Building Code seismic force levels, the procedures used shall be in accordance with one of the following:

1. The 2009 International Building Code using 75 percent of the prescribed forces. Values of R , Ω_0 and C_d used for analysis shall be as specified in Section 101.5.4.4.1 of this code.
2. Structures or portions of structures that comply with the requirements of the applicable chapter in Appendix A of the 2009 International Existing Building Code as specified in Items 2.1 through 2.5 shall be deemed to comply with this section.
 - 2.1. The seismic evaluation and design of unreinforced masonry bearing wall buildings in Occupancy Category I or II are permitted to be based on the procedures specified in Chapter A1 of the 2009 International Existing Building Code.
 - 2.2. Seismic evaluation and design of the wall anchorage system in reinforced concrete and reinforced masonry wall buildings with flexible diaphragms in Occupancy Category I or II are permitted to be based on the procedures specified in Chapter A2 of the 2009 International Existing Building Code.
 - 2.3. Seismic evaluation and design of cripple walls and sill plate anchorage in residential buildings of light-frame wood construction in Occupancy Category I or II are permitted to be based on the procedures specified in Chapter A3 of the 2009 International Existing Building Code.
 - 2.4. Seismic evaluation and design of soft, weak, or open-front wall conditions in multiunit residential buildings of wood construction in Occupancy Category I or II are permitted to be based on the procedures specified in Chapter A4 of the 2009 International Existing Building Code.
 - 2.5. Seismic evaluation and design of concrete buildings and concrete with masonry infill buildings in all occupancy categories are permitted to be based on the procedures specified in Chapter A5 of the 2009 International Existing Building Code.
3. Compliance with ASCE 31 based on the applicable performance level as shown in Table 101.5.4.4.2. It shall be permitted to use the BSE-1 earthquake hazard level as defined in ASCE 41 and subject to the limitations in Item 4 below.
4. Compliance with ASCE 41 using the BSE-1 Earthquake Hazard Level and the performance level shown in Table 101.5.4.4.2. The design spectral response acceleration parameters S_{XS} and S_{X1} specified in ASCE 41 shall not be taken less than 75 percent of the respective design spectral response acceleration parameters S_{DS} and S_{D1} defined by the 2009 International Building Code.

**TABLE 101.5.4.4.2: PERFORMANCE CRITERIA
FOR REDUCED IBC LEVEL SEISMIC FORCES**

OCCUPANCY CATEGORY (Based on IBC Table 1604.5)	PERFORMANCE LEVEL FOR USE WITH ASCE 31	PERFORMANCE LEVEL FOR USE WITH ASCE 41 BSE-1 EARTHQUAKE HAZARD LEVEL
I	Life safety (LS)	Life safety (LS)
II	Life safety (LS)	Life safety (LS)
III	Notes a & b below	Note a below
IV	Immediate occupancy (IO)	Immediate occupancy (IO)

- a. Acceptable criteria for Occupancy Category III shall be taken as 80 percent of the acceptance criteria specified for Occupancy Category IV performance levels.
- b. For Occupancy Category III, the ASCE 31 screening phase checklists shall be based on the life safety performance level.

101.6 One- and two-family dwellings.

The provisions of the 2009 International Residential Code shall apply to the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, removal and demolition of detached one- and two-family dwellings and townhouses not more than three stories above grade plane in height with a separate means of egress and their accessory structures.

Exception: Live/work units complying with the requirements of Section 419 of the 2009 International Building Code shall be permitted to be built as one- and two-family dwellings or townhouses even if said live/work units do not comply with Section 419.5 of the 2009 International Building Code.

101.7 Areas of special flood hazard.

Where applicable, Chapter 54 of the City of Wichita Falls Code of Ordinances shall govern in areas of special flood hazard, as that phrase is defined by that chapter.

SECTION 102 APPLICABILITY

102.1 General.

Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable. Where, in any specific case, different sections of the technical codes specify different materials, methods of construction or other requirements, the most restrictive shall govern.

102.2 Other laws.

The provisions of the technical codes shall not be deemed to nullify any provisions of local, state or federal law.

102.3 Application of references.

References to chapter or section numbers, or to provisions not specifically identified by number, shall be construed to refer to such chapter, section or provision of the technical codes.

102.4 Referenced codes and standards.

The codes and standards referenced in the technical codes shall be considered part of the requirements of the technical codes to the prescribed extent of each such reference. Where differences occur between provisions of the technical codes and referenced codes and standards, the provisions of the 2009 International Building Code shall apply first, and then the provisions of the other technical codes shall apply.

102.5 Severability.

In the event that any part, provision, section, subsection, sentence, clause or phrase of the technical codes is held to be unconstitutional, illegal or void, this shall not have the effect of making unconstitutional, void or illegal any of the other parts, provisions, sections, subsections, clauses or phrases of the technical codes.

102.6 Existing structures.

The legal occupancy of any structure existing on the date of adoption of this code shall be permitted to continue without change, except as is specifically covered in this code and the International Fire Code, or as is deemed necessary by the building official for the general safety and welfare of the occupants and the public.

102.7 Existing installations.

Fuel gas, mechanical, electrical and plumbing systems lawfully in existence at the time of the adoption of the technical codes shall be permitted to have their use and maintenance continued if the use, maintenance or repair is in accordance with the original design and no hazard to life, health or property is created by such system.

102.8 Maintenance.

All fuel gas, mechanical, electrical and plumbing systems, materials and appurtenances, both existing and new, and all parts thereof, shall be maintained in proper operating condition in accordance with the original design in a safe and sanitary condition. All devices or safeguards required by the technical codes shall be maintained in compliance with the code edition under which they were installed. The owner or the owner's designated agent shall be responsible for maintenance of systems. To determine compliance with this provision, the building official shall have the authority to require any system to be reinspected.

102.9 Additions, alterations or repairs.

Additions, alterations, renovations or repairs to any fuel gas, mechanical, electrical or plumbing system shall conform to that required for a new system without requiring the existing system to comply with all the requirements of the technical codes. Additions, alterations or repairs shall not cause an existing system to become unsafe, unsanitary or overloaded. Minor additions, alterations, renovations and repairs to existing fuel gas, mechanical, electrical or plumbing systems shall meet the provisions for new construction, unless such work is done in the same manner and arrangement as was the existing system, is not hazardous and is approved.

102.10 Change in occupancy.

It shall be unlawful to make any change in the occupancy of any structure that will subject the structure to any special provision of the technical codes applicable to the new occupancy without approval of the building official. The building official shall certify that such structure meets the intent of the provisions of law governing building construction for the proposed new occupancy and that such change of occupancy does not result in any hazard to the public health, safety or welfare.

102.11 Historic buildings.

The provisions of the 2009 International Fuel Gas Code, the 2009 International Mechanical Code and the 2009 International Plumbing Code relating to the construction, alteration, repair, enlargement, restoration, relocation or moving of buildings or structures shall not be mandatory for existing buildings or structures identified and classified by the state or local jurisdiction as historic buildings when such buildings or structures are judged by the building official to be safe and in the public interest of health, safety and welfare regarding any proposed construction, alteration, repair, enlargement, restoration, relocation or moving of buildings.

102.12 Moved buildings.

Except as determined by Section 102.7, electrical, fuel gas, mechanical and plumbing systems that are part of buildings or structures moved into or within the jurisdiction shall comply with the provisions of the technical codes for new installations.

102.13 Requirements not covered by code.

Any requirements necessary for the strength, stability or proper operation of an existing or proposed fuel gas, mechanical, electrical or plumbing system, or for the public safety, health and general welfare, not specifically covered by the technical codes shall be determined by the building official.

102.14 Referenced codes and standards.

The codes and standards referenced in each of the technical codes shall be those that are listed in each of the specific technical codes, and such codes and standards shall be considered part of the requirements of the technical codes to the prescribed extent of each such reference. Where differences occur between provisions of the technical codes and the referenced standards, the provisions of the technical codes shall apply.

102.15 Application of references.

Reference to chapter section numbers, or to provisions not specifically identified by number, shall be construed to refer to such chapter, section or provision of the technical codes.

SECTION 103

DUTIES AND POWERS OF BUILDING AND CODE ADMINISTRATOR

103.1 General.

The building and code administrator and his employees and agents are hereby authorized and directed to enforce the provisions of the technical codes. Any reference in the technical codes to “building official” or “code official” shall be held to mean “building and code administrator.” The building and code administrator shall head the division of building and code administration and shall have the authority to render interpretations of the technical codes and to adopt policies and procedures in order to clarify the application of its provisions. Such interpretations, policies and procedures shall be in compliance with the intent and purpose of the technical codes. Such policies and procedures shall not have the effect of waiving requirements specifically provided for in the technical codes.

103.2 Applications and permits.

The building official shall receive applications, review construction documents and issue permits for the erection, alteration, demolition and moving of buildings and structures, inspect the premises for which such permits have been issued, and enforce compliance with the provisions of the technical codes.

103.3 Notices and orders.

The building official shall issue all necessary notices or orders to ensure compliance with the technical codes.

103.4 Inspections.

The building official shall make all of the required inspections, or the building official shall have the authority to accept reports of inspection by approved agencies or individuals. Reports of such inspections shall be in writing and be certified by a responsible officer of such approved agency or by the responsible individual. The building official is authorized to engage such expert opinion as deemed necessary to report upon unusual technical issues that arise, subject to the approval of the appointing authority.

103.5 Identification.

The building official shall carry proper identification when inspecting structures or premises in the performance of duties under the technical codes.

103.6 Right of entry.

Where it is necessary to make an inspection to enforce the provisions of the technical codes, or where the building official has reasonable cause to believe that there exists in a structure or upon a premises a condition which is contrary to or in violation of the technical codes which makes the structure or premises unsafe, dangerous or hazardous, the building official is authorized to enter the structure or premises at reasonable times to inspect or to perform the duties imposed by the technical codes, provided that if such structure or premises be occupied that credentials be presented to the occupant and entry requested. If such structure or premises is unoccupied, the building official shall first make a reasonable effort to locate the owner or other person having charge or control of the structure or premises and request entry. If entry is refused, the building official shall have recourse to the remedies provided by law to secure entry.

103.7 Official records.

The building official shall keep official records of applications received, permits and certificates issued, fees collected, reports of inspections, and notices and orders issued. Such records shall be retained in the official records for the period required for retention of public records.

103.8 Liability.

The building official, members of the construction board of adjustment and appeals, and employees charged with the enforcement of the technical codes, while acting for the jurisdiction in good faith and without malice in the discharge of the duties required by the technical codes or other pertinent law or ordinance, shall not thereby be rendered liable personally and are hereby relieved from personal liability for any damage accruing to persons or

property as a result of any act or by reason of an act or omission in the discharge of official duties. Any suit instituted against an officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of the technical codes shall be defended by legal representative of the jurisdiction until the final termination of the proceedings. The building official or any subordinate shall not be liable for cost in any action, suit or proceeding that is instituted in pursuance of the provisions of the technical codes.

103.9 Approved materials and equipment.

Materials, equipment and devices approved by the building official shall be constructed and installed in accordance with such approval.

103.9.1 Used materials and equipment.

The use of used materials which meet the requirements of the technical codes for new materials is permitted. Used equipment and devices shall not be reused unless approved by the building official.

103.10 Modifications.

Wherever there are practical difficulties involved in carrying out the provisions of the technical codes, the building official shall have the authority to grant modifications for individual cases, upon application of the owner or owner's representative, provided the building official shall first find that special individual reason makes the strict letter of the technical codes impractical and the modification is in compliance with the intent and purpose of the technical codes and that such modification does not lessen health, accessibility, life and fire safety, or structural requirements. The details of action granting modifications shall be recorded and entered in the files of the division of building and code administration.

103.11 Alternative materials, design and methods of construction and equipment.

The provisions of the technical codes are not intended to prevent the installation of any material or to prohibit any design or method of construction not specifically prescribed by the technical codes, provided that any such alternative has been approved. An alternative material, design or method of construction shall be approved where the building official finds that the proposed design is satisfactory and complies with the intent of the provisions of the technical codes, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in the technical codes in quality, strength, effectiveness, fire resistance, durability and safety.

103.11.1 Research reports.

Supporting data, where necessary to assist in the approval of materials or assemblies not specifically provided for in the technical codes, shall consist of valid research reports from approved sources.

103.11.2 Tests.

Whenever there is insufficient evidence of compliance with the provisions of the technical codes, or evidence that a material or method does not conform to the requirements of the technical codes, or in order to substantiate claims for alternative materials or methods, the building official shall have the authority to require tests as evidence of compliance to be made at no expense to the jurisdiction. Test methods shall be as specified in the technical codes or by other recognized test standards. In the absence of recognized and accepted test methods, the building official shall approve the testing procedures. Tests shall be performed by an approved agency. Reports of such tests shall be retained by the building official for the period required for retention of public records.

SECTION 104

CONTRACTOR REGISTRATION

104.1 Definitions.

104.1.1 Contractor defined.

Contractor shall mean any person or entity who undertakes or attempts to submit, or does submit a price or bid to or otherwise offers to or does construct, supervise, superintend, oversee, schedule, direct, or in any manner assume charge of the construction, alteration, repair, improvement, movement, demolition, putting up, tearing down, or furnishing labor to install material or equipment for any building, highway, road, railroad, sewer, grading, excavation, pipeline, public utility, structure, project development, housing,

housing development, improvement or any other construction undertaking. The terms includes, but is not limited to, a prime contractor, electrical contractor, construction manager, residential construction manager, construction consultant and any architect or engineer who conducts or provides any activity or service described herein other than the practice of engineering or architecture as those terms are governed by State law. The term also includes any person, company, firm, partnership or corporation desiring to act as an irrigator, or to engage in the business of work on fuel gas, mechanical, electrical or plumbing systems.

104.1.2 Maintenance work defined.

Maintenance work shall mean repair work and all other work required for the continued normal performance of a commercial property.

104.1.3 Owner defined.

Owner shall mean a person or entity who possesses legal title to a property or such person or entity who may be a regular bona fide employee of the person or entity who possesses legal title to a property. Such term shall not include an "independent contractor" or self-employed individual performing work for a person or entity who possesses legal title to a property, or a person who performs the same work for members of the general public.

104.2 Contractor registration required.

In order to act as a contractor or to perform work pursuant to a building permit, a person or entity must be registered as a contractor with the building official as a contractor, and must reregister annually, in accordance with the following provisions:

1. Application for contractor registration shall be made upon forms provided by the building official and the applicant shall provide all information required by such form.
2. Unregistered contractors shall not acquire building permits or continue work on currently issued building permits.
3. Failure to keep any bond and insurance required by city, state or federal law in force will result in revocation of contractor registration, and will invalidate any building permits issued to the contractor.
4. If a contractor registration expires or is revoked and is then renewed, all permits thereunder must be reissued, and the contractor will be required to pay all applicable fees, including permit fees, again.
5. Contractor registration may be revoked and applications for contractor registration may be rejected by the building official for the following reasons:
 - a. Failure to maintain any required bond and insurance;
 - b. Failure to fully complete contractor registration form;
 - c. Failure to pay any required fee;
 - d. Refusal to correct any violation of the technical codes after notice; or
 - e. Conviction of three or more violations of the technical codes.
6. No contractor registration shall be required to issue a building permit for a residential structure to a homeowner who occupies the property in question as his permanent residence. No contractor registration shall be required to issue a building permit for a residential structure to a homeowner who is constructing a new permanent residence and acting as the general contractor for the work performed. A homeowner may obtain a "new permanent residence" permit not more than once

every two years. Any subcontractor who performs work under a homeowner's permits must meet all city and state licensing requirements.

7. The annual contractor registration carries no fee.
8. An owner shall be exempt from contractor registration requirements when the owner is undertaking work on his own property and the work is of one of the types listed below:
 - a. Electrical maintenance work to include the repair, maintenance and replacement of existing electrical apparatus, existing lighting fixtures, and existing plugs and switches, but not to include the changing of electrical service or the installation of new breaker panels or wiring.
 - b. Plumbing maintenance work to include the repair, maintenance and replacement of existing potable water piping, existing sanitary waste and vent piping, existing plumbing fixtures, and existing electrical water heaters, but not to include cutting into fuel gas plumbing systems or the installation of gas-fueled water heaters.
 - c. Air conditioning and refrigeration maintenance work to include any work required for the continued normal performance of an environmental air conditioning system, commercial refrigeration system or equipment, or process cooling or heating system.
 - d. Building maintenance work to include the repair and maintenance of sheetrock, doors, siding, and windows of any existing building, but not to include the replacement of sheetrock or any new construction or structural change of an existing building, or repair of any load-bearing or structural element of any building.
9. No contractor registration shall be required for a building permit to be issued to an owner of a one- or two-family dwelling unit for work on carports, outbuildings and other similar structures which do not include any livable area.
10. Any contractor whose registration has been revoked or whose application for contractor registration has been rejected by the building official may appeal to the construction board of adjustment and appeals per Section 113 as follows:
 - a. Written notice of the appeal must be made to the construction board of adjustment and appeals within fourteen calendar days of the date on which the building official served notice of his decision either by certified mail or hand delivery.
 - b. The construction board of adjustment and appeals shall hear the appeal within 30 calendar days from the notice of appeal filed by the contractor. During the pendency of the appeal, contractor shall not perform any additional work.

Section 104.3 Bond and insurance requirements.

Any person or entity required to be registered as a contractor who seeks to acquire any building permit for a type of work identified in the table below shall first furnish the building official with a compliance bond and liability insurance in the amounts listed in the table, as well as proof of any bond and insurance that is required by state law.

Type of work	Bond	General liability insurance
Residential roofing	\$25,000	\$100,000
Siding	\$25,000	\$100,000
Residential	\$50,000	\$300,000
Residential/commercial remodel or renovation under \$50,000	\$25,000	\$100,000
General contractor	\$100,000	\$500,000
Sign contractor	\$0	\$100,000

House movers	\$0	\$100,000
Demolition contractor	\$0	\$100,000
Excavation, paving or swimming pool work	\$25,000	\$100,000

104.3.1 Bond standards.

All compliance bonds shall be issued by a surety agency authorized to do business in the State of Texas. All sureties on said bond shall be liable for any breach by the principal, and his agents and employees of any and all applicable laws, ordinances and regulations of the City of Wichita Falls and the State of Texas; to the owner of the property upon which work is performed; to any person or entity with whom the principal has contracted either orally or in writing to perform building construction, alteration, repair or other work; and to any person who may be damaged or injured by the principal's failure to comply with the laws, ordinances and regulations of the City of Wichita Falls or the State of Texas. A claim upon said bond may be made by any person damaged by reason of the principal's failure to perform his obligations under the laws, ordinances and regulations of the City of Wichita Falls or the State of Texas. Suspension or revocation of any registration or permit shall not limit the liability of either the principal or the surety on any such bond.

104.3.2 Insurance standards.

The comprehensive general liability insurance required shall be per occurrence and shall include coverage for bodily injury, property damage, product liability, and completed operations. The insurance coverage shall include a provision that in the event such coverage is canceled or reduced, the insurance carrier shall notify the building official at least ten days prior to such cancellation or reduction in coverage.

SECTION 105

PERMITS

105.1 Required.

Any contractor, owner or authorized agent who intends to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical or plumbing system, the installation of which is regulated by the technical codes, or to cause any such work to be done, shall first obtain a permit from the building official.

105.2 Work exempt from permit.

Exemptions from permit requirements of the technical codes shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of the technical codes or any other applicable laws. Permits shall not be required for the following:

1. Electrical work involving the repair or replacement of existing electrical apparatus, existing lighting fixtures and existing plugs and switches, but not to include the changing of electrical service or the installation of new breaker panels or wiring.
2. The clearing of stoppages and the repairing of leaks in drains or water, soil, waste or vent pipes, but not to include the removal and replacement with new material of any concealed trap, drainpipe, or water, soil, waste or vent pipe.
3. The clearing of stoppages and the repairing of leaks in plumbing valves and fixtures, and the removal and reinstallation of water closets, provided such repairs do not involve or require the rearrangement of valves, pipes or fixtures.
4. Mechanical work involving the following:
 - a. Portable heating appliances.
 - b. Portable ventilation appliances.

- c. Portable cooling units.
 - d. Steam, hot or chilled water piping within any heating or cooling equipment or appliances regulated by the 2009 International Mechanical Code.
 - e. Replacement of any minor part that does not alter approval of equipment, modify the equipment's compliance with any applicable law, or make such equipment unsafe.
 - f. Portable evaporative coolers;
 - g. Self-contained refrigeration systems that contain 10 pounds (4.5 kg) or less of refrigerant, or that are actuated by motors of 1 horsepower (0.75 kW) or less; and
 - h. Portable fuel cell appliances that are not connected to a fixed piping system and are not interconnected to a power grid.
5. Gas work involving any portable heating, cooking or clothes-drying appliances.
6. Building work involving the following activities:
- a. Minor repair of damaged sheetrock, not to include areas of required means of egress, rated walls or removal of sheetrock due to damage from water, mold, fire or termites.
 - b. Replacement of any existing door, door casing or door hardware.
 - c. Repair of damaged siding, fascia or soffit when the repaired area does not exceed ten percent of the total area of the structure's siding and is not repair due to damage caused by water, mold, fire or termites.
 - d. Repair of torn shingles or roof patching when no "tear-off" is required and when the area to be repaired is no more than 25 percent of the total surface area of the roof.
 - e. Work on cabinets, countertops and similar finish work.
 - f. Painting, carpeting, and similar cosmetic work.
 - g. Work on playground equipment accessory to a one- or two-family dwelling.
 - h. Work on sidewalks and drives not more than 30 inches above adjacent grade and not over any basement or story below, but not to include sidewalks or drives in the city right-of-way.
 - i. Installation, repair or replacement of fences not over six feet high.
 - j. Work on retaining walls that are not over four feet in height measured from the bottom of the footing to the top of the wall.
 - k. Work on a prefabricated swimming pool accessory to a Group R-3 occupancy when the pool is less than 24 inches deep, does not exceed 5000 gallons and is installed entirely above ground.
 - l. Work on window awnings supported by the exterior wall of a Group R-3 or U occupancy when the awnings do not project more than 54 inches from the exterior wall and do not require additional support.

105.2.1 Emergency repairs.

Where equipment replacements and repairs must be performed in an emergency situation, a permit application shall be submitted to the building official on the next working business day.

105.2.2 Repairs.

Application or notice to the building official is not required for ordinary repairs to structures, replacement of lamps or the connection of approved portable electrical equipment to approved permanently installed receptacles, provided such repairs do not include the cutting away of any wall, partition or portion thereof, the removal or cutting of any structural beam or load-bearing support, or the removal or change of any required means of egress, or rearrangement of parts of a structure affecting the egress requirements; nor addition to, alteration of, replacement or relocation of any standpipe, water supply, sewer, drainage, drain leader, gas, soil, waste, vent or similar piping, electric wiring or mechanical or other work affecting public health or general safety.

105.2.3 Public utilities.

A permit shall not be required for the installation, alteration or repair of generation, transmission, distribution or metering or other related equipment that is under the ownership and control of public utilities by established right.

105.3 Application for permit.

To obtain a permit, the applicant shall first file an application with the building official. Such application shall:

1. Identify and describe the work to be covered by the permit for which application is made.
2. Describe the land on which the proposed work is to be done by legal description, street address or similar description that will readily identify and definitely locate the proposed building or work.
3. Indicate the use and occupancy for which the proposed work is intended.
4. Be accompanied by construction documents and other information as required in Section 107.
5. State the valuation of the proposed work.
6. Be signed by the applicant, or the applicant's authorized agent.
7. Give such other data and information as required by the building official.

105.3.1 Action on application.

The building official shall examine or cause to be examined applications for permits and amendments thereto within a reasonable time after filing. If the application or the construction documents do not conform to the requirements of pertinent laws, the building official shall reject such application in writing, stating the reasons therefor. If the building official is satisfied that the proposed work conforms to the requirements of the technical codes and laws and ordinances applicable thereto, the building official shall issue a permit therefor as soon as practicable.

105.3.2 Time limitation of application.

An application for a permit for any proposed work shall be deemed to have been abandoned 180 days after the date of filing, unless such application has been pursued in good faith or a permit has been issued; except that the building official is authorized to grant one or more extensions of time for additional periods not exceeding 90 days each. The extension shall be requested in writing and justifiable cause demonstrated.

105.4 Validity of permit.

The issuance or granting of a permit shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of the technical codes or of any other ordinance of the jurisdiction. Permits presuming to give authority to violate or cancel the provisions of the technical codes or other ordinances of the jurisdiction shall not be valid. The issuance of a permit based on construction documents and other data shall not prevent the building official from requiring the correction of errors in the construction documents and other data. The building official is

also authorized to prevent occupancy or use of a structure where in violation of this code or of any other ordinances of this jurisdiction.

105.5 Expiration.

Every permit issued shall become invalid unless the work on the site authorized by such permit is commenced within 180 days after its issuance, or if the work authorized on the site by such permit is suspended or abandoned for a period of 180 days after the time the work is commenced. The building official is authorized to grant, in writing, one or more extensions of time, for periods not more than 180 days each. The extension shall be requested in writing and justifiable cause demonstrated.

105.6 Suspension or revocation.

The building official is authorized to suspend or revoke a permit issued under the provisions of this code wherever the permit is issued in error or on the basis of incorrect, inaccurate or incomplete information, or in violation of any ordinance or regulation or any of the provisions of this code.

105.7 Placement of permit.

All permits or copies thereof shall be kept on the site of the work until the completion of the project.

105.8 Preliminary inspection.

Before issuing a permit, the building official is authorized to examine or cause to be examined any buildings, structures and sites for which an application has been filed.

105.9 Restoration permit.

A restoration permit may be issued for buildings or structures at the order of the City Council under Section 22-605 of the Code of Ordinances of the City of Wichita Falls. Such permit will be issued with requirements and deadlines as established by the City Council in an order it shall issue in accordance with Section 22-605.

SECTION 106

FLOOR AND ROOF DESIGN LOADS

106.1 Live loads posted.

Where the live load for which each floor or portion thereof of a commercial or industrial building is or has been designed to exceed 50 psf (2.40 kN/m²), such design live loads shall be conspicuously posted by the owner in that part of each story in which they apply, using durable signs. It shall be unlawful to remove or deface such notices.

106.2 Issuance of certificate of occupancy.

A certificate of occupancy required by Section 111 shall not be issued until the floor load signs, required by Section 106.1, have been installed.

106.3 Restrictions on loading.

It shall be unlawful to place, or cause or permit to be placed, on any floor or roof of a building, structure or portion thereof, a load greater than is permitted by this code.

SECTION 107

SUBMITTAL DOCUMENTS

107.1 General.

Submittal documents consisting of construction documents, statement of special inspections, geotechnical report and other data shall be submitted in one or more sets with each permit application. The construction documents shall be prepared and sealed with an official seal by an architect or engineer legally registered under the laws of the State of Texas regulating the practice of architecture or engineering when the permit application concerns the following:

1. A Group A (Assembly), Group E (Education) or Group I (Institutional) occupancy of 2,500 square feet or more in area;
2. A building or structure of three or more stories; or

3. A building or structure of 5,000 square feet or more in area.

107.1.1 Regarding registered design professional.

If the building official determines the preparation of the construction documents for any permit application necessitates the “practice of engineering” as defined by the Texas Occupations Code, then the construction documents or the part thereof that constitutes the “practice of engineering” must be sealed by a Texas-licensed engineer. For all other permit applications, the submittal shall bear the certification of the applicant that state law permits its preparation by a person not legally registered as an architect or engineer under the laws of the State of Texas regulating the practice of architecture or engineering, except that construction documents for a permit application concerning a Group R-3 building or structure, regardless of size, shall require neither a registered architect or engineer nor a certification that an architect or engineer is not required.

107.1.2 Exception.

The building official is authorized to waive the submission of construction documents and other data not required to be prepared by a registered architect or engineer by this code or applicable state law if the permit application demonstrates that the nature of the work is such that a review of the construction documents by the building official is not necessary to obtain compliance with the technical codes.

107.2 Construction documents.

Construction documents shall be in accordance with Sections 107.2.1 through 107.2.5.

107.2.1 Information on construction documents.

Construction documents shall be dimensioned and drawn upon suitable material. Electronic media documents are permitted to be submitted when approved by the building official. Construction documents shall be of sufficient clarity to indicate the location, nature and extent of the work proposed and show in detail that it will conform to the provisions of this code and relevant laws, ordinances, rules and regulations, as determined by the building official.

107.2.2 Fire protection system shop drawings.

Shop drawings for the fire protection system(s) shall be submitted to indicate conformance to this code and the construction documents and shall be approved prior to the start of system installation. Shop drawings shall contain all information as required by the referenced installation standards in Chapter 9.

107.2.3 Means of egress.

The construction documents shall show in sufficient detail the location, construction, size and character of all portions of the means of egress in compliance with the provisions of this code. In other than occupancies in Groups R-2, R-3, and I-1, the construction documents shall designate the number of occupants to be accommodated on every floor, and in all rooms and spaces.

107.2.4 Exterior wall envelope.

Construction documents for all buildings shall describe the exterior wall envelope in sufficient detail to determine compliance with this code. The construction documents shall provide details of the exterior wall envelope as required, including flashing, intersections with dissimilar materials, corners, end details, control joints, intersections at roof, eaves or parapets, means of drainage, water-resistive membrane and details around openings.

The construction documents shall include manufacturer's installation instructions that provide supporting documentation that the proposed penetration and opening details described in the construction documents maintain the weather resistance of the exterior wall envelope. The supporting documentation shall fully describe the exterior wall system which was tested, where applicable, as well as the test procedure used.

107.2.5 Site plan.

The construction documents submitted with the application for permit shall be accompanied by a site plan showing to scale the size and location of new construction and existing structures on the site, distances

from lot lines, the established street grades and the proposed finished grades and, as applicable, flood hazard areas, floodways, and design flood elevations; and it shall be drawn in accordance with an accurate boundary line survey. In the case of demolition, the site plan shall show construction to be demolished and the location and size of existing structures and construction that are to remain on the site or plot. The building official is authorized to waive or modify the requirement for a site plan when the application for permit is for alteration or repair or when otherwise warranted.

107.3 Examination of documents.

The building official shall examine or cause to be examined the accompanying submittal documents and shall ascertain by such examinations whether the construction indicated and described is in accordance with the requirements of this code and other pertinent laws or ordinances.

107.3.1 Approval of construction documents.

When the building official issues a permit, the construction documents shall be approved, in writing or by stamp, as "Reviewed for Code Compliance." One set of construction documents so reviewed shall be retained by the building official. The other set shall be returned to the applicant, shall be kept at the site of work and shall be open to inspection by the building official or a duly authorized representative.

107.3.2 Previous approvals.

This code shall not require changes in the construction documents, construction or designated occupancy of a structure for which a lawful permit has been heretofore issued or otherwise lawfully authorized, and the construction of which has been pursued in good faith within 180 days after the effective date of this code and has not been abandoned.

107.3.3 Phased approval.

The building official is authorized to issue a permit for the construction of foundations or any other part of a building or structure before the construction documents for the whole building or structure have been submitted, provided that adequate information and detailed statements have been filed complying with pertinent requirements of this code. The holder of such permit for the foundation or other parts of a building or structure shall proceed at the holder's own risk with the building operation and without assurance that a permit for the entire structure will be granted.

107.3.4 Design professional in responsible charge.

107.3.4.1 General.

When it is required that documents be prepared by a registered design professional, the building official shall be authorized to require the owner to engage and designate on the building permit application a registered design professional who shall act as the registered design professional in responsible charge. If the circumstances require, the owner shall designate a substitute registered design professional in responsible charge who shall perform the duties required of the original registered design professional in responsible charge. The building official shall be notified in writing by the owner if the registered design professional in responsible charge is changed or is unable to continue to perform the duties.

The registered design professional in responsible charge shall be responsible for reviewing and coordinating submittal documents prepared by others, including phased and deferred submittal items, for compatibility with the design of the building.

107.3.4.2 Deferred submittals.

For the purposes of this section, deferred submittals are defined as those portions of the design that are not submitted at the time of the application and that are to be submitted to the building official within a specified period.

Deferral of any submittal items shall have the prior approval of the building official. The registered design professional in responsible charge shall list the deferred submittals on the construction documents for review by the building official.

Documents for deferred submittal items shall be submitted to the registered design professional in responsible charge who shall review them and forward them to the building official with a notation indicating that the deferred submittal documents have been reviewed and found to be in general conformance to the design of the building. The deferred submittal items shall not be installed until the deferred submittal documents have been approved by the building official.

107.4 Amended construction documents.

Work shall be installed in accordance with the approved construction documents, and any changes made during construction that are not in compliance with the approved construction documents shall be resubmitted for approval as an amended set of construction documents.

107.5 Retention of construction documents.

One set of approved construction documents shall be retained by the building official for a period of not less than 180 days from date of completion of the permitted work, or as required by state or local laws.

SECTION 108

TEMPORARY EQUIPMENT, STRUCTURES AND USES

108.1 General.

The building official is authorized to issue a permit for temporary equipment, structures, systems and uses. Such permits shall be limited as to time of service, but shall not be permitted for more than 180 days. The building official is authorized to grant extensions for demonstrated cause.

108.2 Conformance.

Temporary equipment, structures, systems and uses shall conform to the structural strength, fire safety, means of egress, accessibility, light, ventilation and sanitary requirements of this code as necessary to ensure public health, safety and general welfare.

108.3 Temporary utilities.

The building official is authorized to give permission to temporarily supply utilities before an installation has been fully completed and the final certificate of completion has been issued. The part covered by the temporary certificate shall comply with the requirements specified for temporary utilities in the technical codes and in NFPA 70.

108.4 Termination of approval.

The building official is authorized to terminate such permit for temporary equipment, structures, systems or uses and to order the temporary equipment, structure, system or use to be discontinued.

SECTION 109

FEES

109.1 Payment of fees.

A permit shall not be valid until the fees prescribed by law have been paid, nor shall an amendment to a permit be released until the additional fee, if any, has been paid.

109.2 Schedule of permit fees.

The fees for work shall be as indicated in the schedule located in the Code of Ordinances.

109.3 Building permit valuations.

The applicant for a permit shall provide an estimated permit value at time of application. Permit valuations shall include total value of work, including materials and labor, for which the permit is being issued, such as electrical, gas, mechanical, plumbing equipment and permanent systems. If, in the opinion of the building official, the valuation is underestimated on the application, the permit shall be denied, unless the applicant can show detailed estimates to meet the approval of the building official. Final building permit valuation shall be set by the building official.

109.4 Work commencing before permit issuance.

Any person who commences any work on a building, structure, electrical, gas, mechanical or plumbing system before obtaining the necessary permits shall be subject to a fee established by the building official that shall be in addition to the required permit fees.

109.5 Related fees.

The payment of the fee for the construction, alteration, removal or demolition for work done in connection to or concurrently with the work authorized by a building permit shall not relieve the applicant or holder of the permit from the payment of other fees that are prescribed by law.

109.6 Refunds.

The building official is authorized to establish a refund policy.

SECTION 110 INSPECTIONS

110.1 General.

Construction or work for which a permit is required shall be subject to inspection by the building official and such construction or work shall remain accessible and exposed for inspection purposes until approved. Approval as a result of an inspection shall not be construed to be an approval of a violation of the provisions of this code or of other ordinances of the jurisdiction. Inspections presuming to give authority to violate or cancel the provisions of this code or of other ordinances of the jurisdiction shall not be valid. It shall be the duty of the permit applicant to cause the work to remain accessible and exposed for inspection purposes. Neither the building official nor the jurisdiction shall be liable for expense entailed in the removal or replacement of any material required to allow inspection.

110.2 Preliminary inspection.

Before issuing a permit, the building official is authorized to examine or cause to be examined buildings, structures and sites for which an application has been filed.

110.3 Required inspections.

The building official, upon notification, shall make the inspections set forth in Sections 110.3.1 through 110.3.10.

110.3.1 Footing and foundation inspection.

Footing and foundation inspections shall be made after excavations for footings are complete and any required reinforcing steel is in place. For concrete foundations, any required forms shall be in place prior to inspection. Materials for the foundation shall be on the job, except where concrete is ready mixed in accordance with ASTM C 94, the concrete need not be on the job.

110.3.2 Concrete slab and under-floor inspection.

Concrete slab and under-floor inspections shall be made after in-slab or under-floor reinforcing steel and building service equipment, conduit, piping accessories and other ancillary equipment items are in place, but before any concrete is placed or floor sheathing installed, including the subfloor.

110.3.3 Lowest floor elevation.

In flood hazard areas, upon placement of the lowest floor, including the basement, and prior to further vertical construction, the elevation certification required in Chapter 54 of the Code of Ordinances shall be submitted to the building official.

110.3.4 Frame inspection.

Framing inspections shall be made after the roof deck or sheathing, all framing, fireblocking and bracing are in place and pipes, chimneys and vents to be concealed are complete and the rough electrical, plumbing, heating wires, pipes and ducts are approved.

110.3.5 Lath and gypsum board inspection.

Lath and gypsum board inspections shall be made after lathing and gypsum board, interior and exterior, is in place, but before any plastering is applied or gypsum board joints and fasteners are taped and finished.

Exception: Gypsum board that is not part of a fire-resistance-rated assembly or a shear assembly.

110.3.6 Fire- and smoke-resistant penetrations.

Protection of joints and penetrations in fire-resistance-rated assemblies, smoke barriers and smoke partitions shall not be concealed from view until inspected and approved.

110.3.7 Energy efficiency inspections.

Inspections shall be made to determine compliance with Chapter 13 and shall include, but not be limited to, inspections for: envelope insulation R- and U- values, fenestration U- value, duct system R -value, and HVAC and water-heating equipment efficiency.

110.3.8 Plumbing inspections.

The building official, upon notification from the permit holder or the permit holder's agent, shall make the following plumbing inspections:

1. Underground inspection shall be made after trenches or ditches are excavated and bedded, piping installed, and before any backfill is put in place.
2. Rough-in inspection shall be made after the roof, framing, fireblocking, firestopping, draftstopping and bracing is in place and all sanitary, storm and water distribution piping is roughed-in, and prior to the installation of wall or ceiling membranes.
3. Final inspection shall be made after the building is complete, all plumbing fixtures are in place and properly connected, and the structure is ready for occupancy.

110.3.9. Mechanical inspections.

The building official, upon notification from the permit holder or the permit holder's agent, shall make the following mechanical systems inspections:

1. Underground inspection shall be made after trenches or ditches are excavated and bedded, piping installed, and before backfill is put in place. When excavated soil contains rocks, broken concrete, frozen chunks and other rubble that would damage and break the piping or cause corrosive action, clean backfill shall be on the job site.
2. Rough-in inspection shall be made after the roof, framing, fireblocking and bracing are in place and all ducting and other components to be concealed are complete, and prior to the installation of wall or ceiling membranes.
3. Final inspection shall be made upon completion of the mechanical system.

110.3.9.1 Inspections involving ground-source heat pump loop systems.

Ground-source heat pump loop systems tested in accordance with Section 1208.1.1 of the 2009 International Mechanical Code shall be permitted to be backfilled prior to inspection.

110.3.9.2 Replacement of heating equipment or appliances.

The requirements of Sections 110.3.9 and 110.3.9.1 shall not be considered to prohibit the operation of any heating equipment or appliances installed to replace existing heating equipment or appliances serving an occupied portion of a structure provided that a request for inspection of such heating equipment or appliances has been filed with the building official not more than 48 hours after such replacement work is completed, and before any portion of such equipment or appliances is concealed by any permanent portion of the structure.

110.3.10 Evaluation and follow-up inspection services.

Prior to the approval of a prefabricated system or construction assembly and the issuance of an applicable permit, the building official shall require the submittal of an evaluation report on each prefabricated system or assembly indicating the complete details of the system, including a description of the system and its components, the basis upon which the system is being evaluated, test results and similar information, and other data as necessary for the building official to determine conformance to this code.

110.3.10.1 Evaluation service.

The building official shall designate the evaluation service of an approved agency as the evaluation agency, and review such agency's evaluation report for adequacy and conformance to this code.

110.3.10.2 Follow-up inspection.

Except where ready access is provided to all systems, service equipment and accessories for complete inspection at the site without disassembly or dismantling, the building official shall conduct the frequency of in-plant inspections necessary to ensure conformance to the approved evaluation report or shall designate an independent, approved inspection agency to conduct such inspections. The inspection agency shall furnish the building official with the follow-up inspection manual and a report of inspections upon request, and the system or construction assembly shall have an identifying label permanently affixed to the system indicating that factory inspections have been performed.

110.3.10.3 Test and inspection records.

All required test and inspection records shall be available to the building official at all times during the fabrication of the system or construction assembly and the erection of the building, or such records as the building official designates shall be filed.

110.3.11 Special inspections.

Special inspections of alternative engineered design plumbing systems shall be conducted in accordance with Sections 110.3.11.1 and 110.3.11.2.

110.3.11.1 Periodic inspection.

The registered design professional or designated inspector shall periodically inspect and observe the alternative engineered design to determine that the installation is in accordance with the approved construction documents. All discrepancies shall be brought to the immediate attention of the plumbing contractor for correction. Records shall be kept of all inspections.

110.3.11.2 Written report.

The registered design professional shall submit a final report in writing to the building official upon completion of the installation, certifying that the alternative engineered design conforms to the approved construction documents. A notice of approval for the plumbing system shall not be issued until a written certification has been submitted.

110.3.12 Testing.

Fuel gas, mechanical and plumbing work and systems shall be tested in accordance with and as required by the technical codes. Tests shall be made by the permit holder and observed by the building official.

110.3.12.1 New, altered, extended or repaired systems.

New fuel gas, mechanical, electrical and plumbing systems and parts of existing systems that have been altered, extended or repaired shall be tested as prescribed herein to disclose leaks and defects, except that testing is not required in the following cases:

1. In any case involving a plumbing system that does not include addition to, replacement, alteration or relocation of any water supply, drainage or vent piping.

2. In any case where plumbing equipment is set up temporarily for exhibition purposes.

110.3.12.2 Equipment, material and labor for tests.

All equipment, material and labor required for testing a fuel gas, mechanical or plumbing system or part thereof shall be furnished by the permit holder.

110.3.12.3 Reinspection and testing.

Where any work or installation does not pass any initial test or inspection, the necessary corrections shall be made to comply with this code. The work or installation shall then be resubmitted to the building official for inspection and testing.

110.3.13 Other inspections.

In addition to the inspections specified above, the building official is authorized to make or require other inspections of any construction work to ascertain compliance with the provisions of this code and other laws that are enforced by the building and code administration division.

110.3.14 Special inspections.

For special inspections, see Section 1704.

110.3.15 Final inspection.

The final inspection shall be made after all work required by the building permit is completed.

110.4 Inspection agencies.

The building official is authorized to accept reports of approved inspection agencies, provided such agencies satisfy the requirements as to qualifications and reliability.

110.5 Inspection requests.

It shall be the duty of the holder of the building permit or their duly authorized agent to notify the building official when work is ready for inspection. It shall be the duty of the permit holder to provide access to and means for inspections of such work that are required by this code.

110.6 Approval required.

Work shall not be done beyond the point indicated in each successive inspection without first obtaining the approval of the building official. The building official, upon notification, shall make the requested inspections and shall either indicate the portion of the construction that is satisfactory as completed, or notify the permit holder or his or her agent wherein the same fails to comply with this code. Any portions that do not comply shall be corrected and such portion shall not be covered or concealed until authorized by the building official.

110.7 Revocation.

The building official is authorized to, in writing, suspend or revoke a notice of approval issued under the provisions of the technical codes wherever the notice is issued in error, or on the basis of incorrect information supplied, or where it is determined that the building or structure, premise or portion thereof is in violation of any ordinance or regulation or any of the provisions of the technical codes.

SECTION 111

CERTIFICATE OF OCCUPANCY

111.1 Use and occupancy.

No building, structure, altered area of a building or relocated building shall be used or occupied, and no change in the existing occupancy classification of a building or structure or portion thereof shall be made, until the building official has issued a certificate of occupancy therefor as provided herein. Issuance of a certificate of occupancy shall not be construed as an approval of a violation of the provisions of this code or of other ordinances of the jurisdiction.

Exception: Certificates of occupancy are not required for work exempt from permits under Section 105.2.

111.2 Certificate issued.

After the building official inspects the building or structure and finds no violations of the provisions of this code or other laws that are enforced by the building and code administration division, the building official shall issue a certificate of occupancy that contains the following:

1. The building permit number.
2. The address of the structure.
3. The name and address of the owner.
4. A description of that portion of the structure for which the certificate is issued.
5. A statement that the described portion of the structure has been inspected for compliance with the requirements of this code for the occupancy and division of occupancy and the use for which the proposed occupancy is classified.
6. The name of the building official.
7. The edition of the code under which the permit was issued.
8. The use and occupancy, in accordance with the provisions of Chapter 3.
9. The type of construction as defined in Chapter 6.
10. The design occupant load.
11. If an automatic sprinkler system is provided, whether the sprinkler system is required.
12. Any special stipulations and conditions of the building permit.

111.3 Temporary occupancy.

The building official is authorized to issue a temporary certificate of occupancy before the completion of the entire work covered by the permit, provided that such portion or portions shall be occupied safely. The building official shall set a time period during which the temporary certificate of occupancy is valid.

111.4 Revocation.

The building official is authorized to, in writing, suspend or revoke a certificate of occupancy or completion issued under the provisions of this code wherever the certificate is issued in error, or on the basis of incorrect information supplied, or where it is determined that the building or structure or portion thereof is in violation of any ordinance or regulation or any of the provisions of this code.

SECTION 112

SERVICE UTILITIES

112.1 Connection of service utilities.

No person shall make connections from a utility, source of energy, fuel, power, water system or sewer system to any building or system that is regulated by the technical codes for which a permit is required, until released by the building official.

112.2 Temporary connection.

The building official shall have the authority to authorize the temporary connection of the building or system to the utility, source of energy, fuel power, water system or sewer system for the purpose of testing or for use under a temporary certificate of occupancy.

112.3 Authority to disconnect service utilities.

The building official shall have the authority to authorize disconnection of utility service to the building, structure or system regulated by the technical codes in case of emergency where necessary to eliminate an immediate hazard to life or property or when such utility connection has been made without the approval of the building official. The building official shall notify the serving utility, and wherever possible the owner and occupant of the building, structure or service system of the decision to disconnect prior to taking such action. If not notified prior to disconnecting, the owner or occupant of the building, structure or service system shall be notified in writing, as soon as practical thereafter.

SECTION 113

CONSTRUCTION BOARD OF ADJUSTMENT AND APPEALS

113.1 General.

In order to hear and decide appeals of orders, decisions or determinations made by the building official or the fire marshal relative to the application and interpretation of the technical codes or the fire code, there shall be a construction board of adjustment and appeals which shall consist of eleven regular members and two alternate members. The board shall be appointed by the City Council and shall hold office at its pleasure. The board shall adopt rules of procedure for conducting its business.

113.2 Limitations on authority.

A person shall have the right to appeal any decision of the building official or the fire marshal to the construction board of adjustment and appeals. An application for appeal shall be based on a claim that the true intent of the technical codes or the fire code or a rule adopted thereunder has been incorrectly interpreted, that the provisions of the technical codes or the fire code do not fully apply, or that an equally good or better form of construction is proposed. The board shall have no authority to waive requirements of the technical codes or the fire code.

113.3 Qualifications.

The construction board of adjustment and appeals shall be composed of one general building contractor, one mechanical engineer, one structural engineer, one architect, one person representing the home building industry, one plumbing contractor, one air conditioning contractor, one electrical contractor, one Master Electrician, one person representing the property insurance industry and one citizen at large not connected with the construction industry. The two alternate members shall consist of one general building contractor and one person representing the home building industry. A board member shall not act in any case where he has a financial interest. The City Council shall have the authority to substitute a member who is qualified by experience and training to pass on matters pertaining to building construction for any of the listed individuals. A current employee of the City shall not sit on the board.

113.4 Terms.

Members to the construction board of adjustment and appeals shall be appointed for three-year terms. In no case shall a member serve more than six consecutive years. Board members' terms shall expire on December 31.

113.5 Quorum and voting.

Five members of the construction board of adjustment and appeals shall constitute a quorum. In varying any provision of the technical codes or fire code or modifying a decision of the building official or fire marshal, affirmative votes of the majority present, but not less than five affirmative votes, shall be required. In the event that regular members are unable to attend a meeting, the alternate members shall vote.

113.6 Board acting in an advisory capacity.

In addition to the duties noted herein, the construction board of adjustment and appeals shall act as an advisory board on matters of technical or fire code requirements, modifications or amendments. The board may hear evidence of any proposals from the building official or fire marshal or other persons and may present opinions of such proposals to the City Council for further action.

113.7 Removal of member for absence.

Continued absence of any member from required meetings of the construction board of adjustment and appeals shall, at the discretion of the City Council, render any such member subject to immediate removal from the board.

SECTION 114

VIOLATIONS AND PENALTIES

114.1 Unlawful acts.

It shall be unlawful for any person, firm or corporation to erect, construct, alter, extend, repair, move, remove, demolish or occupy any building, structure or equipment regulated by the technical codes, or cause same to be done, in conflict with or in violation of any of the provisions of the technical codes.

114.2 Notice of violation.

The building official is authorized to serve a notice of violation or order on the person responsible for the erection, construction, alteration, extension, repair, moving, removal, demolition or occupancy of a building or structure in violation of the provisions of the technical codes, or in violation of a permit or certificate issued under the provisions of the technical codes. Such order shall direct the discontinuance of the illegal action or condition and the abatement of the violation. In cases of immediate danger to life or property, the building official may act to disconnect or otherwise abate an immediately dangerous circumstance without such notice of violation.

114.2.1 Responsibility for enforcement.

The building official, the Building and Code Administration Division, the code compliance and code enforcement officers and all other employees of the division shall enforce all city ordinances relating to buildings, electrical, plumbing, mechanical, landscaping and zoning. No person shall interfere in any manner with or give false information to these City employees in the performance of their duties. When a building, structure or system is maintained in violation of the technical codes and in violation of a notice of violation issued by the building official pursuant to the technical codes, the building official shall institute appropriate action to prevent, restrain, correct or abate the violation.

114.3 Prosecution of violation.

If the notice of violation is not complied with promptly, the building official is authorized to request the legal counsel of the jurisdiction to institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful occupancy of the building or structure in violation of the provisions of the technical codes or of the order or direction made pursuant thereto.

114.4 Violation penalties.

Any person who violates a provision of the technical codes or fails to comply with any of the requirements thereof or who erects, constructs, alters or repairs a building or structure in violation of the approved construction documents or directive of the building official, or of a permit or certificate issued under the provisions of the technical codes, shall be guilty of a misdemeanor. Each such person shall be deemed to have committed a separate offense for each and every day during which any violation of any of the provisions of the technical codes is committed or continued, and upon convictions of any such violation, such person shall be punished by a fine as provided in Section 1-14 of the Code of Ordinances of the City of Wichita Falls.

114.5 Unsafe condition as nuisance.

Any condition, system or circumstance regulated by the technical codes that is unsafe or that constitutes a fire or health hazard, unsanitary condition, or is otherwise dangerous to human life is hereby declared unsafe. Any use of a system regulated by the technical codes constituting a hazard to safety, health or public welfare by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, disaster, damage or abandonment is hereby declared an unsafe use. Any such unsafe system is hereby declared to be a public nuisance and shall be abated by repair, rehabilitation, demolition or removal.

114.6 Authority to order disconnection of energy sources.

The building official shall have the authority to order disconnection of energy sources supplied to a building, structure or system regulated by the technical codes when it is determined that a system or any portion thereof utilizing such energy sources has become hazardous or unsafe. Written notice of such order to disconnect service and the causes therefore shall be given within 24 hours to the owner and occupant of such building, structure or premises, provided, however, that in cases of immediate danger to life or property, such disconnection shall be made immediately without such notice. Where energy sources are provided by a public utility, the building official shall immediately notify the serving utility in writing of the issuance of such order to disconnect.

114.7 Connection after order to disconnect.

A person shall not make energy source connections to systems regulated by the technical codes which have been disconnected or ordered to be disconnected by the building official, or the use of which has been ordered to be discontinued by the building official until the building official authorizes the reconnection and use of such systems.

SECTION 115

STOP WORK ORDER

115.1 Authority to stop work.

Whenever the building official finds any work regulated by the technical codes being performed in a manner either contrary to the provisions of the technical codes or dangerous or unsafe, the building official is authorized to issue a stop work order. Such order shall be in writing and shall be given to the owner of the property, or to the owner's agent or to the person doing the work, or shall be posted on the property. The order shall state the conditions under which work is authorized to resume. When an emergency exists, the building official shall not be required to give a written notice prior to stopping the work.

115.2 Issuance.

The stop work order shall be in writing and shall be given to the owner of the property involved, or to the owner's agent, or to the person doing the work. Upon issuance of a stop work order, the cited work shall immediately cease. The stop work order shall state the reason for the order, and the conditions under which the cited work will be permitted to resume.

115.3 Unlawful continuance.

It shall be unlawful for any person to continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition.

SECTION 116

DANGEROUS BUILDING OR STRUCTURES

116.1 Regulation of dangerous buildings or structures.

Dangerous buildings or structures shall be regulated by Article VIII of Chapter 22 of the Code of Ordinances.

SECTION 117

EMERGENCY MEASURES

117.1 Imminent danger.

When, in the opinion of the building official, there is imminent danger of failure or collapse of a building that endangers life, or when any building or part of a building has fallen and life is endangered by the occupation of the building, or when there is actual or potential danger to the building occupants or those in the proximity of any structure because of explosives, explosive fumes or vapors, or the presence of toxic fumes, gases, or materials, or operation of defective or dangerous equipment, the building official is hereby authorized and empowered to order and require the occupants to vacate the premises forthwith. The building official shall cause to be posted at each entrance to such structure a notice reading as follows: "This Structure is Unsafe and Its Occupancy Has Been Prohibited by the Building Official." It shall be unlawful for any person to enter such structure except for the purpose of securing the structure, making required repairs, removing the hazardous condition, or of demolishing the same.

117.2 Temporary safeguards.

Notwithstanding other provisions of the technical codes, whenever, in the opinion of the building official, there is imminent danger due to an unsafe condition, the building official shall order the necessary work to be done, including the boarding up of openings, to render such structure temporarily safe whether or not the legal procedures herein described have been instituted; and shall cause such other action to be taken as the building official deems necessary to meet such emergency.

117.3 Closing streets.

When necessary for public safety, the building official shall temporarily close structures and close or order the police department to close sidewalks, streets, public ways, and places adjacent to unsafe structures, and prohibit the same from being utilized.

117.4 Emergency repairs.

For the purposes of this section, the building official shall employ the necessary labor and materials to perform the required work as expeditiously as possible.

117.5 Costs of emergency repairs.

Costs incurred in the performance of emergency work shall be paid by the City, and the Legal Department shall institute appropriate action against the owner of the premises where the unsafe structure is or was located for the recovery of such costs.

SECTION 118

CARE TO OTHER STRUCTURES AND SITES DUE UPON REMOVAL

118.1 Foundations of adjacent structures.

Whenever a building or structure is removed, the site shall be left in such condition so as to prevent the accumulation of water that may undermine foundations of adjacent buildings or structures.

118.2 Party walls.

Whenever a building or structure on one side of a party wall or adjacent wall is removed, the remaining party wall or adjacent wall shall be left in a safe, weatherproof condition. Permanent bracing or other repairs shall be provided as necessary whenever the building official determines that the stability of the remaining wall is affected. Open beam holes or other openings between the top wall and roof shall be closed in such manner as to make the remaining building closed to the effects of weather. All such repairs, stabilizing and weatherproofing must be done in a manner approved by the building official, and all work will be done at the expense of the person who removes the building or structures. After repairs are completed and approved, continued maintenance of the remaining wall will become the responsibility of the person who owns the remaining building. After a building or structure is removed, the owner of the remaining building shall be allowed access to the adjacent property for the purpose of maintenance of the remaining wall.

Sec. 22-27. Changes, deletions and amendments.

The following changes, deletions and amendments are made to the specified sections in the 2009 International Building Code adopted in Section 22-26. Where an adopted section of the 2009 International Building Code has not been changed, deleted, or amended by this ordinance, it is adopted as worded in the 2009 International Building Code. Except where noted as deleted or amended, all definitions in the 2009 International Building Code Section 202 are adopted as written.

SECTION 202

DEFINITIONS

HISTORIC BUILDINGS. Buildings that were constructed prior to 1945, that are listed in or eligible for listing in the National Register of Historic Places, or that are designated as historic under an appropriate state or local law (see Sections 3409 and 3411.9).

~~423.1 General.~~

~~In addition to other applicable requirements in this code, storm shelters shall be constructed in accordance with ICC-500.~~

~~423.1.1 Scope.~~

~~This section applies to the construction of storm shelters constructed as separate detached buildings or constructed as safe rooms within buildings for the purpose of providing safe refuge from storms that produce high winds, such as tornadoes and hurricanes. Such structures shall be designated to be hurricane shelters, tornado shelters, or combined hurricane and tornado shelters.~~

423.2 Definitions.

The following words and terms shall, for the purposes of this chapter and as used elsewhere in this code, have the meanings shown herein.

~~STORM SHELTER. A building, structure or portions(s) thereof, constructed in accordance with ICC 500 and designated for use during a severe wind storm event, such as a hurricane or tornado.~~

~~Community storm shelter. A storm shelter not defined as a “Residential Storm Shelter.”~~

~~Residential storm shelter. A storm shelter serving occupants of dwelling units and having an occupant load not exceeding 16 persons.~~

705.5 Fire-resistance ratings.

Exterior walls shall be fire-resistance rated in accordance with Tables 601 and 602 and this section. The required fire-resistance rating of exterior walls with a fire separation distance of greater than ~~10 feet (3048 mm)~~ 5 feet (1524 mm) shall be rated for exposure to fire from the inside. The required fire-resistance rating of exterior walls with a fire separation distance of less than or equal to ~~10 feet (3048 mm)~~ 5 feet (1524 mm) shall be rated for exposure to fire from both sides.

1612.1 General.

~~Within flood hazard areas as established in Section 1612.3, all new construction of buildings, structures and portions of buildings and structures, including substantial improvement and restoration of substantial damage to buildings and structures, shall be designed and constructed to resist the effects of floor hazards and flood loads. For buildings that are located in more than one flood hazard area, the provisions associated with the most restrictive flood hazard area shall apply. The applicable provisions of Chapter 54 of the Code of Ordinances shall govern flood loads.~~

1612.2 Definitions.

The following words and terms shall, for the purposes of this section, have the meanings shown herein.

~~BASE FLOOD. The flood having a 1 percent chance of being equaled or exceeded in any given year.~~

~~BASE FLOOD ELEVATIONS. The elevation of the base flood, including wave height, relative to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD) or other datum specified on the Flood Insurance Rate Map (FIRM).~~

~~BASEMENT. The portion of a building having its floor subgrade (below ground level) on all sides. This definition of “Basement” is limited in application to the provisions of Section 1612 (see “Basement” in Section 502.1).~~

~~DESIGN FLOOD. The flood associated with the greater of the following two area:~~

- ~~1. ——— Area with a flood plain subject to a 1 percent or greater chance of flooding in any year; or~~
- ~~2. ——— Area designated as a flood hazard area on a community’s flood hazard map, or otherwise legally designated.~~

~~DESIGN FLOOD ELEVATION. The elevation of the “design flood” including wave height, relative to the datum specified on the community’s legally designated flood hazard map. In areas designated as Zone AO, the design flood elevation shall be the elevation of the highest existing grade of the building’s perimeter plus the depth number (in feet) specified on the flood hazard map. In areas designated as Zone AO where a depth number is not specified on the map, the depth number shall be taken as being equal to 2 feet (610 mm).~~

~~DRY FLOODPROOFING. A combination of design modifications that results in a building or structure, including the attendant utility and sanitary facilities, being water tight with walls substantially impermeable to the passage of water and with structural components having the capacity to resist loads as identified in ASCE 7.~~

~~EXISTING CONSTRUCTION. Any buildings and structures for which the “start of construction” commenced before the effective date of the community’s first flood plain management code, ordinance or standard. “Existing construction” is also referred to as “existing structures.”~~

~~EXISTING STRUCTURE. See “Existing construction.”~~

~~FLOOD or FLOODING. A general and temporary condition of partial or complete inundation of normally dry land from:~~

- ~~1. The overflow of inland or tidal waters.~~
- ~~2. The unusual and rapid accumulation or runoff of surface waters from any source.~~

~~FLOOD DAMAGE RESISTANT MATERIALS. Any construction material capable of withstanding direct and prolonged contact with floodwaters without sustaining any damage that requires more than cosmetic repair.~~

~~FLOOD HAZARD AREA. The greater of the following two areas:~~

- ~~1. The area within a flood plain subject to a 1 percent or greater chance of flooding in any year.~~
- ~~2. The area designated as a flood hazard area on a community’s flood hazard map, or otherwise legally designated.~~

~~FLOOD HAZARD AREA SUBJECT TO HIGH VELOCITY WAVE ACTION. Area within the flood hazard area that is subject to high velocity wave action, and shown on a Flood Insurance Rate Map (FIRM) or other flood hazard map as Zone V, VO, VE or V1-30.~~

~~FLOOD INSURANCE RATE MAP (FIRM). An official map of a community of which the Federal Emergency Management Agency (FEMA) has delineated both the special flood hazard areas and the risk premium zones applicable to the community.~~

~~FLOOD INSURANCE STUDY. The official report provided by the Federal Emergency Management Agency containing the Flood Insurance Rate Map (FIRM), the Flood Boundary and Floodway Map (FBFM), the water surface elevation of the base flood and supporting technical data.~~

~~FLOODWAY. The channel of the river, creek or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.~~

~~LOWEST FLOOR. The floor of the lowest enclosed area, including basement, but excluding any unfinished or flood resistant enclosure, usable solely for vehicle parking, building access or limited storage provided that such enclosure is not built so as to render the structure in violation of this section.~~

~~SPECIAL FLOOD HAZARD AREA. The land area subject to flood hazards and shown on a Flood Insurance Rate Map or other flood hazard map as Zone A, AE, A1-30, A99, AR, AO, AH, V, VO, VE or V1-30.~~

~~START OF CONSTRUCTION. The date of issuance for new construction and substantial improvements to existing structures, provided the action start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement is within 180 days after the date of issuance. The actual start of construction means the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of a slab or footings, installation of pilings or construction of columns.~~

~~Permanent construction does not include land preparation (such as clearing, excavation, grading or filling), the installation of streets or walkways, excavation for a basement, footings, piers or foundations, the erection of temporary forms or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main building. For a substantial improvement, the action “start of construction” means the first~~

~~_____n of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.~~

~~SUBSTANTIAL DAMAGE. Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.~~

~~SUBSTANTIAL IMPROVEMENT. Any repair, reconstruction, rehabilitation, addition or improvement of a building or structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the improvement or repair is started. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the action repair work performed. The term does not, however, include either:~~

- ~~1. _____ Any project for improvement of a building required to correct existing health, sanitary or safety code violations identified by the building official and that are the minimum necessary to assure safe living conditions.~~
- ~~2. _____ Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.~~

~~1612.3 Establishment of flood hazard areas.~~

~~To establish flood hazard areas, the applicable governing authority shall adopt a flood hazard map and supporting data. The flood hazard map shall include, at a minimum, areas of special flood hazard as identified by the Federal Emergency Management Agency in an engineering report entitled "The Flood Insurance Study for [INSERT NAME OF JURISDICTION]," dated [INSERT DATE OF ISSUANCE], as amended or revised with the accompanying Flood Insurance Rate Map (FIRM) and Flood Boundary and Floodway Map (FBFM) and related supporting data along with any revisions thereto. The adopted flood hazard map and supporting data are hereto adopted by reference and declared to be part of this section.~~

~~1612.3.1 Design flood elevations.~~

~~Where design flood elevations are not included in the flood hazard areas established in Section 1612.3, or where floodways are not designated, the building official is authorized to require the applicant to:~~

- ~~1. _____ Obtain and reasonable utilize any design flood elevation and floodway data available from a federal, state or other source; or~~
- ~~2. _____ Determine the design flood elevation and/or floodway in accordance with accepted hydrologic and hydraulic engineering practices used to define special flood hazard areas. Determinations shall be undertaken by a registered design professional who shall document that the technical methods used reflect currently accepted engineering practice.~~

~~1612.3.2 Determination of impacts.~~

~~In riverine flood hazard areas where design flood elevations are specified but floodways have not been designated, the applicant shall provide a floodway analysis that demonstrates that the proposed work will not increase the design flood elevation more than 1 foot (305 mm) at any point within the jurisdiction of the applicable governing authority.~~

~~1612.4 Design and construction.~~

~~The design and construction of buildings and structures located in flood hazard areas, including flood hazard areas subject to high velocity wave action, shall be in accordance with Chapter 5 of ASCE 7 and with ASCE 24.~~

~~1612.5 Flood hazard documentation.~~

~~The following documentation shall be prepared and sealed by a registered design professional and submitted to the building official:~~

- ~~_____ 1. _____ For construction in flood hazard areas not subject to high velocity wave action:~~

~~1.1 The elevation of the lowest floor, including the basement, as required by the lowest floor elevation inspection in Section 110.3.3.~~

~~1.2 For fully enclosed areas below the design flood elevation where provisions to allow for the automatic entry and exit of floodwaters do not meet the minimum requirements in Section 2.6.2.1 of ASCE 24, construction documents shall include a statement that the design will provide for equalization of hydrostatic flood forces in accordance with Section 2.6.2.2 of ASCE 24.~~

~~1.3 For dry floodproofed nonresidential buildings, construction documents shall include a statement that the dry floodproofing is designed in accordance with ASCE 24.~~

~~2. For construction in flood hazard areas subject to high velocity wave action:~~

~~2.1 The elevation of the bottom of the lowest horizontal structural member as required by the lowest floor elevation inspection in Section 110.3.3.~~

~~2.2 Construction documents shall include a statement that the building is designed in accordance with ASCE 24, including that the pile or column foundation and building or structure to be attached thereto is designed to be anchored to resist flotation, collapse and lateral movement due to the effects of wind and flood loads acting simultaneously on all building components, and other load requirements of Chapter 16.~~

~~2.3 For breakaway walls designed to resist a nominal load of less than 10 PSF (0.48 kN/m²) or more than 20 psf (0.96 kN/m²), construction documents shall include a statement that the breakaway wall is designed in accordance with ASCE 24.~~

2. 2009 International Plumbing Code

Sections 22-481 and 22-482 of the Code of Ordinances of the City of Wichita Falls are amended to read as follows:

Sec. 22-481. Adopted.

The following portions of the 2009 International Plumbing Code, published by the International Code Council, are adopted by reference as though they were copied fully in this section: Chapters 2-13, and Appendices B through G.

Sec. 22-482. Changes, deletions and amendments.

The following changes, deletions and amendments are made to the specified sections in the 2009 International Plumbing Code adopted in Section 22-481. Where an adopted section of the 2009 International Plumbing Code has not been changed, deleted, or amended by this ordinance, it is adopted as worded in the 2009 International Plumbing Code.

312.2 Drainage and vent water test.

A water test shall be applied to the drainage system either in its entirety or in sections. If applied to the entire system, all openings in the piping shall be tightly closed, except the highest opening, and the system shall be filled with water to the point of overflow. If the system is tested in sections, each opening shall be tightly plugged except the highest openings of the section under test, and each section shall be filled with water, but no section shall be tested with less than a ~~405-foot (3048 mm)~~ 10-foot (3048 mm) head of water. In testing successive sections, at least the upper 10 feet (3048 mm) of the next preceding section shall be tested so that no joint or pipe in the building, except the uppermost 10 feet (3048 mm) of the system, shall have been submitted to a test of less than a 10-foot (3048 mm) head of water. This pressure shall be held for at least 15 minutes. The system shall then be tight at all points. Drainage lines outside the building shall be exempt from this test unless covered by concrete or asphalt.

312.6 Gravity sewer test.

~~Gravity sewer tests shall consist of plugging the end of the building sewer at the point of connection with the public sewer, filling the building sewer with water, testing with not less than a 10 foot (3048 mm) head of water and maintaining such pressure for 15 minutes.~~

312.7 Forced sewer test.

~~Forced sewer tests shall consist of plugging the end of the building sewer at the point of connection with the public sewer and applying a pressure of 5 psi (34.5 kPa) greater than the pump rating, and maintaining such pressure for 15 minutes.~~

312.9 Shower liner test.

Where shower floors and receptors are made water-tight by the application of materials required by Section 417.5.2, the completed liner installation shall be tested as required by the building official. The pipe from the shower drain shall be plugged water tight for the test. The floor and receptor area shall be filled with potable water to a depth of not less than 2 inches (51 mm) measured at the threshold. Where a threshold of at least 2 inches (51 mm) high does not exist, a temporary threshold shall be constructed to retain the test water in the lined floor or receptor area to a level not less than 2 inches (51 mm) deep measured at the threshold. The water shall be retained for a test period of not less than 15 minutes, and there shall not be evidence of leakage.

312.10 Inspection and testing of backflow prevention assemblies.

~~Inspection and testing shall comply with Sections 312.10.1 and 312.10.2.~~

312.10.1 Inspections.

~~Annual inspections shall be made of all backflow prevention assemblies and air gaps to determine whether they are operable.~~

312.10.2 Testing.

~~Reduced pressure principle backflow preventer assemblies, double check valve assemblies, pressure vacuum breaker assemblies, reduced pressure detector fire protection backflow prevention assemblies, double check detector fire protection backflow prevention assemblies, hose connection backflow preventers, and spillproof vacuum breakers shall be tested at the time of installation, immediately after repairs or relocation and at least annually. The testing procedure shall be performed in accordance with one of the following standards: ASSE 5013, ASSE 5015, ASSE 5020, ASSE 5047, ASSE 5048, ASSE 5052, ASSE 5056, CSA B64.10 or CSA B64.10.1.~~

1. The installation of all devices used for the prevention of backflow or back siphonage shall meet the requirements of International Plumbing Code Table 608.1. Devices installed in a potable water supply for protection against backflow shall be maintained in an operable condition by the property owner or other person having control of such devices. The building official shall require periodic testing of such devices and, when found to be inoperative or defective, shall require that such devices be repaired or replaced.
2. All backflow prevention devices shall be tested in accordance with manufacturer's recommended performance standards. Testing shall be conducted at the time of installation, then every five years thereafter. If the device is repaired or relocated, testing of the device shall be conducted at the time of repair or relocation, and every five years of service thereafter. Backflow devices used in hazardous applications shall be tested annually.

314.2.3. Auxiliary and secondary drain systems.

In addition to the requirements of Section 314.2.1, where damage to any building components could occur as a result of overflow from the equipment primary condensate removal system, one of the following auxiliary protection methods shall be provided for each cooling coil or fuel-fired appliance that produces condensate:

1. An auxiliary drain pan with a separate drain shall be provided under the coils on which condensation will occur. The auxiliary pan drain shall discharge to a conspicuous point of disposal to alert occupants in the event of a stoppage of the primary drain. The pan shall have a minimum

depth of 1½ inches (38 mm), shall not be less than 3 inches (76 mm) larger than the unit or the coil dimensions in width and length and shall be constructed of corrosion-resistant material. Galvanized sheet metal pans shall have a minimum thickness of not less than 0.0236-inch (0.6010 mm) (No. 24 gauge) galvanized sheet metal. Nonmetallic pans shall have a minimum thickness of not less than 0.0625 inch (1.6 mm).

2. A separate overflow drain line shall be connected to the drain pan provided with the equipment. Such overflow drain shall discharge to a conspicuous point of disposal to alert occupants in the event of a stoppage of the primary drain. The overflow drain line shall connect to the drain pan at a higher level than the primary drain connection.
3. An auxiliary drain pan without a separate drain line shall be provided under the coils on which condensate will occur. Such pan shall be equipped with a water-level detection device conforming to UL 508 that will shut off the equipment served prior to overflow of the pan. The auxiliary drain pan shall be constructed in accordance with Item 1 of this section.
4. ~~A water level detection device conforming to UL 508 shall be provided that will shut off the equipment served in the event that the primary drain is blocked. The device shall be installed in the primary drain line, the overflow drain line, or in the equipment supplied drain pan, located at a point higher than the primary drain line connection and below the overflow rim of such pan.~~

~~Exception: Fuel fired appliances that automatically shut down operation in the event of a stoppage in the condensate drainage system.~~

413.3. Commercial food waste grinder waste outlets.

Commercial food waste grinders shall be connected to a drain not less than 1½ inches (38 mm) in diameter. Commercial food waste grinders shall be connected and trapped separately from any other fixtures or sink compartments and shall have a reduced pressure principle backflow preventer.

504.7 Required pan.

Where water heaters or hot water storage tanks are installed in locations where leakage of the tanks or connections will cause damage, the tank or water heater shall be installed in a galvanized steel pan having a material thickness of not less than 0.0236 inch (0.6010 mm) (No. 24 gauge), or other pans approved for such use. If an existing installation is being replaced and does not include a pan, a pan need not be installed for the replacement water heater or hot water storage tank where the building official determines that a drain is not readily accessible.

504.7.1 Pan size and drain.

The pan shall not be less than 1 ½ inches (38 mm) deep and shall be of sufficient size and shape to receive all dripping or condensate from the tank or water heater. The pan shall be drained by an indirect waste pipe having a minimum diameter of ¾ inch (19 mm). Piping for safety pan drains shall be of schedule 40 PVC or those materials listed in Table 605.4.

504.7.3 Water detection device.

A water detection device with alarm shall be installed in drain pans when the pan does not conform to Section 504.7.2.

608.7 ~~Valves and outlets prohibited below grade~~ Water Supply Control.

An accessible one-fourth turn ball valve shall be installed outside, near the entrance of the water service pipe to the building or structure. The valve shall be a full port bronze one-fourth turn ball valve, 400 WOG (nonshock), 125 psi saturated steam. It shall be located and accessible in a valve box with a readily removable access cover which extends to grade level.

608.7.1 Valves and outlets prohibited below grade.

Potable water outlets and combination stop-and-waste valves shall not be installed underground or below grade. Freezeproof yard hydrants that drain the riser into the ground are considered to be stop-and-waste valves.

Exception: Freezeproof yard hydrants that drain the riser into the ground shall be permitted to be installed, provided that the potable water supply to such hydrants is protected upstream of the hydrants in accordance with Section 608 and the hydrants are permanently identified as nonpotable outlets by approved signage that reads as follows: "Caution, Nonpotable Water. Do Not Drink."

708.3.4 Base of stack.

~~A cleanout~~ Accessible cleanouts shall be provided ~~at~~ near the base of each vertical waste or soil stack. Alternatively, such cleanouts shall be installed outside the building within 3 feet (914 mm) of the building wall.

1002.4 Trap seals.

Each fixture trap shall have a liquid seal of not less than 2 inches (51 mm) and not more than 4 inches (102 mm), or deeper for special designs relating to accessible fixtures. Where a trap seal is subject to loss by evaporation, a ~~trap seal primer~~ deep-seal trap consisting of a 4-inch (102 mm) seal valve shall be installed. ~~Trap seal primer valves shall connect to the trap at a point above the level of the trap seal. A trap seal primer valve shall conform to ASSE 1018 or ASSE 1044.~~

3. 2009 International Mechanical Code

Sections 22-511 and 22-512 of the Code of Ordinances of the City of Wichita Falls are amended to read as follows:

Sec. 22-511. Adopted.

The following portions of the 2009 International Mechanical Code, published by the International Code Council, are adopted by reference as though they were copied fully in this section: Chapters 2-15.

Sec. 22-512. Changes, deletions and amendments.

The following changes, deletions and amendments are made to the specified sections in the 2009 International Mechanical Code adopted in Section 22-511. Where an adopted section of the 2009 International Mechanical Code has not been changed, deleted, or amended by this ordinance, it is adopted as worded in the 2009 International Mechanical Code.

Section 307.2.3. Auxiliary and secondary drain systems.

In addition to the requirements of Section 307.2.1, where damage to any building components could occur as a result of overflow from the equipment primary condensate removal system, one of the following auxiliary protection methods shall be provided for each cooling coil or fuel-fired appliance that produces condensate:

1. An auxiliary drain pan with a separate drain shall be provided under the coils on which condensation will occur. The auxiliary pan drain shall discharge to a conspicuous point of disposal to alert occupants in the event of a stoppage of the primary drain. The pan shall have a minimum depth of 1 ½ inches (38 mm), shall not be less than 3 inches (76 mm) larger than the unit or the coil dimensions in width and length and shall be constructed of corrosion-resistant material. Galvanized sheet steel pans shall have a minimum thickness of not less than 0.0236 inch (0.6010 mm) (No. 24 gauge). Nonmetallic pans shall have a minimum thickness of not less than 0.0625 inch (1.6 mm).
2. A separate overflow drain line shall be connected to the drain pan provided with the equipment. Such overflow drain shall discharge to a conspicuous point of disposal to alert occupants in the event of a stoppage of the primary drain. The overflow drain line shall connect to the drain pan at a higher level than the primary drain connection.
3. An auxiliary drain pan without a separate drain line shall be provided under the coils on which condensate will occur. Such pan shall be equipped with a water-level detection device conforming

to UL 508 that will shut off the equipment served prior to overflow of the pan. The auxiliary drain pan shall be constructed in accordance with Item 1 of this section.

4. ~~A water level detection device conforming to UL 508 shall be provided that will shut off the equipment served in the event that the primary drain is blocked. The device shall be installed in the primary drain line, the overflow drain line, or in the equipment supplied drain pan, located at a point higher than the primary drain line connection and below the overflow rim of such pan.~~

~~Exception: Fuel fired appliances that automatically shut down operation in the event of a stoppage in the condensate drainage system.~~

4. 2009 International Fuel Gas Code

Sections 22-571 and 22-572 of the Code of Ordinances of the City of Wichita Falls are amended to read as follows:

Sec. 22-571. Adopted.

The following portions of the 2009 International Fuel Gas Code, published by the International Code Council, are adopted by reference as though they were copied fully in this section: Chapters 2-8, and Appendices A, B and C.

Sec. 22-572. Changes, deletions and amendments.

The following changes, deletions and amendments are made to the specified sections in the 2009 International Fuel Gas Code adopted in Section 22-571. Where an adopted section of the 2009 International Fuel Gas Code has not been changed, deleted, or amended by this ordinance, it is adopted as worded in the 2009 International Fuel Gas Code.

304.10 Louvers and grilles. Size of openings.

~~The required size of openings for combustion, ventilation and dilution air shall be based on the net free area of each opening. Where the free area through a design of louver, grille or screen is known, it shall be used in calculating the size opening required to provide the free area specified. Where the design and free area of louvers and grilles are not known, it shall be assumed that wood louvers will have 25 percent free area and metal louvers and grilles will have 75 percent free area. Screens shall have a mesh size not smaller than ¼ inch (6.4 mm). Nonmotorized louvers and grilles shall be fixed in the open position. Motorized louvers shall be interlocked with the appliance so that they are proven to be in the full open position prior to main burner ignition and during main burner operation. Means shall be provided to prevent the main burner from igniting if the louvers fail to open during burner start up and to shut down the main burner if the louvers close during operation. The required size of openings for combustion, ventilation and dilution air shall be the greater of 1 square inch of uninterrupted combustion air per 1000 Btu, or as specified in the manufacturer's recommendation.~~

Section 408.4 Sediment trap.

Where a sediment trap is not incorporated as part of the appliance, a sediment trap ~~shall~~ may be required by the building official to be installed downstream of the appliance shutoff valve as close to the inlet of the appliance as practical. The sediment trap shall be either a tee fitting having a capped nipple of any length installed vertically in the bottommost opening of the tee or other device approved as an effective sediment trap. Illuminating appliances, ranges, clothes dryers and outdoor grills need not be so equipped.

~~Section 409.5.3 Located at manifold.~~

~~Where the appliance shutoff valve is installed at a manifold, such shutoff valve shall be located within 50 feet (15 240 mm) of the appliance served and shall be readily accessible and permanently identified. The piping from the manifold to within 6 feet (1829 mm) of the appliance shall be designed, sized and installed in accordance with Sections 401 through 408.~~

5. 2009 International Residential Code for One- and Two-Family Dwellings

Sections 22-700 and 22-701 of the Code of Ordinances of the City of Wichita Falls are amended to read as follows:

Sec. 22-700. Adopted.

The following portions of the 2009 International Residential Code for One- and Two-Family Dwellings, published by the International Code Council, are adopted by reference as though they were copied fully in this section: Chapters 2-34, and Appendices F, I and J.

Sec. 22-701. Changes, deletions and amendments.

The following changes, deletions and amendments are made to the specified sections in the 2009 International Residential Code for One- and Two-Family Dwellings adopted in Section 22-700. Where an adopted section of the 2009 International Residential Code for One- and Two-Family Dwellings has not been changed, deleted, or amended by this ordinance, it is adopted as worded in the 2009 International Residential Code for One- and Two-Family Dwellings.

R305.1 Minimum height.

Habitable space, hallways, bathrooms, toilet rooms, laundry rooms and portions of basements containing these spaces shall have a ceiling height of not less than 7 feet (2134 mm).

Exceptions:

1. Beams and girders spaced not less than 4 feet (1219 mm) on center may project not more than 6 inches (152 mm) below the required ceiling height.
2. Ceilings in basements without habitable spaces may project to within 6 feet 8 inches (2032 mm) of the finished floor; and beams, girders, ducts or other obstructions may project to within 6 feet 4 inches (1931 mm) of the finished floor.
- ~~13.~~ For rooms with sloped ceilings, at least ~~50~~ 25 percent of the required floor area of the room must have a ceiling height of at least 7 feet (2134 mm) and no portion of the required floor area may have a ceiling height of less than ~~5~~ 4 feet (1524 mm).
- ~~24.~~ Bathrooms shall have a minimum ceiling height of 6 feet 8 inches (2032 mm) at the center of the front clearance area for fixtures as shown in Figure R307.1. The ceiling height above fixtures shall be such that the fixture is capable of being used for its intended purpose. A shower or tub equipped with a showerhead shall have a minimum ceiling height of 6 feet 8 inches (2032 mm) above a minimum area 30 inches (762 mm) by 30 inches (762 mm) at the showerhead.

~~SECTION R313~~

~~AUTOMATIC FIRE SPRINKLER SYSTEMS~~

~~R313.1 Townhouse automatic fire sprinkler systems.~~

~~An automatic residential fire sprinkler system shall be installed in townhouses.~~

~~Exception: An automatic residential fire sprinkler system shall not be required when additions or alterations are made to existing townhouses that do not have an automatic residential fire sprinkler system installed.~~

~~R313.1.1 Design and installation.~~

~~Automatic residential fire sprinkler systems for townhouses shall be designed and installed in accordance with Section P2904.~~

~~R313.2 One and two family dwellings automatic fire systems.~~

~~Effective January 1, 2011, an automatic residential fire sprinkler system shall be installed in one and two family dwellings.~~

~~Exception: An automatic residential fire sprinkler system shall not be required for additions or alterations to existing buildings that are not already provided with an automatic residential sprinkler system.~~

~~R313.2.1 Design and installation.~~

~~Automatic residential fire sprinkler systems shall be designed and installed in accordance with Section P2904 or NFPA 13D.~~

R317.1 Location required.

Protection of wood and wood based products from decay shall be provided in the following locations by the use of naturally durable wood or wood that is preservative-treated in accordance with AWPAC U1 for the species, product, preservative and end use. Preservatives shall be listed in Section 4 of AWPAC U1.

1. Wood joists of the bottom of a wood structural floor when closer than 18 inches (457 mm) or wood girders when closer than 12 inches (305 mm) to the exposed ground in crawl spaces or unexcavated area located within the periphery of the building foundation.
2. All wood framing members that rest on concrete or masonry exterior foundation walls and are less than 8 inches (203 mm) from the exposed ground.
3. ~~Sills and sleepers on a concrete or masonry slab that is in direct contact with the ground unless separated from such slab by an impervious moisture barrier.~~
43. The ends of wood girders entering exterior masonry or concrete walls having clearances of less than ½ inch (12.7 mm) on tops, sides and ends.
54. Wood siding, sheathing and wall framing on the exterior of a building having a clearance of less than 6 inches (152 mm) from the ground or less than 2 inches (51 mm) measured vertically from concrete steps, porch slabs, patio slabs, and similar horizontal surfaces exposed to the weather.
65. Wood structural members supporting moisture-permeable floors or roofs that are exposed to the weather, such as concrete or masonry slabs, unless separated from such floors or roofs by an impervious moisture barrier.
76. Wood furring strips or other wood framing members attached directly to the interior of exterior masonry walls or concrete walls below grade except where an approved vapor retarder is applied between the wall and the furring strips or framing members.

~~SECTION R323~~

~~STORM SHELTERS~~

~~R323.1 General.~~

~~This section applies to the construction of storm shelters when constructed as separate detached buildings or when constructed as safe rooms within buildings for the purpose of providing safe refuge from storms that produce high winds, such as tornados and hurricanes. In addition to other applicable requirements in this code, storm shelters shall be constructed in accordance with ICC/NSSA 500.~~

R703.7.3 Lintels.

Masonry veneer shall not support any vertical load other than the dead load of the veneer above. Veneer above openings shall be supported on lintels of noncombustible materials. The lintels shall have a length of bearing not less than 4 inches (102 mm). Steel lintels shall be ~~shop~~ coated with a rust-inhibitive paint, except for lintels made of

corrosion-resistant steel or steel treated with coatings to provide corrosion resistance. Construction of openings shall comply with ~~either Section R703.7.3.1. or 703.7.3.2.~~

R703.7.3.1.

The allowable span shall not exceed the values set forth in Table R703.7.3.1.

~~R703.7.3.2.~~

~~The allowable span shall not exceed 18 feet 3 inches (5562 mm) and shall be constructed to comply with Figure R703.7.3.2 and the following:~~

- ~~1. Provide a minimum length of 18 inches (457 mm) of masonry veneer on each side of opening as shown in Figure R703.7.3.2.~~
- ~~2. Provide a minimum 5 inch by 3 ½ inch by 5/16 inch (127 mm by 89 mm by 7.9 mm) steel angle above the opening and shore for a minimum of 7 days after installation.~~
- ~~3. Provide double wire joint reinforcement extending 12 inches (305 mm) beyond each side of the opening. Lap splices of joint reinforcement a minimum of 12 inches (305 mm). Comply with one of the following:~~
 - ~~3.1 Double wire joint reinforcement shall be 3/16 inch (4.8 mm) diameter and shall be placed in the first two bed joints above the opening.~~
 - ~~3.2 Double wire joint reinforcement shall be 9 gauge (0.144 inch or 3.66 mm diameter) and shall be placed in the first three bed joints above the opening.~~

R905.2.8.3 Sidewall flashing.

Flashing against a vertical sidewall shall be by the step flashing method. The flashing shall be a minimum of 4 inches (102 mm) high and 4 inches (102 mm) wide. ~~At the end of the vertical sidewall the step flashing shall be turned out in a manner that directs water away from the wall and onto the roof and/or gutter. Flashing against a vertical sidewall shall be required.~~

N1101.9 Certificate.

~~A permanent certificate shall be posted on or in the electrical distribution panel. The certificate shall not cover or obstruct the visibility of the circuit directory label, service disconnect label or other required labels. The certificate shall be completed by the builder or registered design professional. The certificate shall list the predominant R-values of insulation installed in or on ceiling/roof, walls, foundation (slab, basement wall, crawlspace wall and/or floor) and ducts outside conditioned spaces; U factors for fenestration; and the solar heat gain coefficient (SHGC) of fenestration. Where there is more than one value for each component, the certificate shall list the value covering the largest area. The certificate shall list the types and efficiencies of heating, cooling and service water heating equipment. Where a gas fired unvented room heater, electric furnace and/or baseboard electric heater is installed in the residence, the certificate shall list "gas fired unvented room heater," "electric furnace" or "baseboard electric heater," as appropriate. An efficiency shall not be listed for gas fired unvented room heaters, electric furnaces or electric base board heaters.~~

N1103.8.3 Pool covers.

~~Heated pools shall be equipped with a vapor retardant pool cover on or at the water surface. Pools heated to more than 90°F (32°C) shall have a pool cover with a minimum insulation value of R-12.~~

SECTION N1104

LIGHTING SYSTEMS

N1104.1 Lighting equipment.

A minimum of 50 percent of the lamps in permanently installed lighting fixtures shall be high-efficacy lamps.

M1307.3.1 Protection from impact.

~~Appliances shall not be installed in a location subject to vehicle damage except where protected by approved barriers.~~

P3005.2.6 Base of stacks.

~~A cleanout~~ Accessible cleanouts shall be provided ~~at~~ near the base of each vertical waste or soil stack. Alternatively, such cleanouts shall be installed outside the building within 3 feet (914 mm) of the building wall.

6. 2009 International Existing Building Code

Sections 22-710 and 22-711 of the Code of Ordinances of the City of Wichita Falls are amended to read as follows:

Sec. 22-710. Adopted.

The following portions of the 2009 International Existing Building Code, published by the International Code Council, are adopted by reference as though they were copied fully in this section: Chapters 2-15, Appendix A, and Resource A.

Sec. 22-711. Changes, deletions and amendments.

The following changes, deletions and amendments are made to the specified sections in the 2009 International Existing Building Code adopted in Section 22-710. Where an adopted section of the 2009 International Existing Building Code has not been changed, deleted, or amended by this ordinance, it is adopted as worded in the 2009 International Existing Building Code. Except where noted as deleted or amended, all definitions in the 2009 International Existing Building Code Section 202 are adopted as written.

~~HISTORIC BUILDING. Any building or structures that was constructed prior to 1945, that is listed in or eligible for listing in the is listed in the State or National Register of Historic Places, or that is designated as a historic property under an appropriate local or state designation law, or survey; certified as a contributing resource within a National Register listed or locally designated historic district; or with an opinion or certification that the property is eligible to be listed on the National or State Register of Historic Places either individually or as a contributing building to a historic district by the State Historic Preservation Officer or the Keeper of the National Register of Historic Places.~~

1301.2 Applicability.

Structures existing prior to ~~[DATE TO BE INSERTED BY THE JURISDICTION].~~ ~~Note: it is recommended that this date coincide with the effective date of building codes within the jurisdiction]~~ 1945, in which there is work involving additions, alterations, or changes of occupancy, shall be made to conform to the requirements of this chapter or the provisions of Chapters 4 through 12. The provisions of Sections 1301.2.1 through 1301.2.5 shall apply to existing occupancies that will continue to be, or are proposed to be, in Groups A, B, E, F, M, R, and S. These provisions shall not apply to buildings with occupancies in Group H or Group I.

1301.4 Investigation and evaluation.

For proposed work covered by this chapter, the building owner shall cause the existing building to be investigated and evaluated by a Registered Fire Protection Engineer in accordance with the provisions of Section 1301.4 through 1301.9.

7. 2009 International Fire Code

Sections 50-61 and 50-62 of the Code of Ordinances of the City of Wichita Falls are amended to read as follows:

Sec. 50-61. Adopted.

The following portions of the 2009 International Fire Code, published by the International Code Council, are adopted by reference as though they were copied fully in this section: Chapters 1-47, and Appendices B, C, D, F, H, and I.

Sec. 50-62. Changes, deletions and amendments.

The following changes, deletions and amendments are made to the specified sections in the 2009 International Fire Code adopted in Section 50-61. Where an adopted section of the 2009 International Fire Code has not been changed, deleted, or amended by this ordinance, it is adopted as worded in the 2009 International Fire Code.

103.1 General.

The department of fire prevention is established within the jurisdiction under the direction of the fire code official. The function of the department shall be the implementation, administration and enforcement of the provisions of this code. Any reference in this code to the fire code official shall mean the fire marshal.

105.1.1 Permits required.

Permits required by this code shall be obtained from the fire code official. Permit fees, if any, shall be paid prior to issuance of the permit. Issued permits shall be kept on the premises designated therein at all times and shall be readily available for inspection by the fire code official. Where the fire marshal determines that the specific circumstances of any activity do not create a condition potentially hazardous to life, property or public welfare, he shall have the authority to waive the requirement of a permit.

108.1 Board of appeals established.

~~In order to hear and decide a~~ Appeals of orders, decisions or determinations made by the fire code official relative to the application and interpretation of this code, ~~there shall be and is hereby created a board of appeals. The board of appeals shall be appointed by the governing body and shall hold office at its pleasure. The fire code official shall be an ex officio member of said board but shall have no vote on any matter before the board. The board shall adopt rules of procedure for conducting its business, and shall render all decisions and findings in writing to the appellant with a duplicate copy to the fire code official. shall be appealed to the construction board of adjustment and appeals per Section 113 of the amendments to the 2009 International Building Code.~~

108.2 Limitations on authority.

~~An application for appeal shall be based on a claim that the intent of this code or the rules legally adopted hereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or an equivalent method of protection or safety is proposed. The board shall have no authority to waive requirements of this code.~~

108.3 Qualifications.

~~The board of appeals shall consist of members who are qualified by experience and training to pass on matters pertaining to hazards of fire, explosions, hazardous conditions or fire protection systems and are not employees of the jurisdiction.~~

109.3 Violation penalties.

Persons who shall violation a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter, repair or do work in violation of the approved construction documents or directive of the fire code official, or of a permit or certificate used under provisions of this code, shall be guilty of a misdemeanor. Each such person shall be deemed to have committed a separate offense for each and every day during which any violation of any of the provision of the fire codes is committed or continued, and upon convictions of any such violation, such person shall be punished by a fine as provided in Section 1-14 of the Code of Ordinances of the City of Wichita Falls, [SPECIFY OFFENSE], punishable by a fine of not more than [AMOUNT] dollars or by imprisonment not exceeding [NUMBER OF DAYS], or both such fine and imprisonment. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

8. Any code referenced within the 2009 International Codes adopted pursuant to this ordinance, which has not been adopted by the City of Wichita Falls, shall not be considered to be adopted by mere reference in one of said 2009 International Codes and shall not be considered a local ordinance.

9. This ordinance regulates fire safety and public health and sanitation, and shall be punishable by a penalty of up to \$2,000 per violation and as provided by Section 1-14 of the Wichita Falls Code of Ordinances.

10. The City Council intends the provisions of this ordinance to become a part of the Code of Ordinances of the City of Wichita Falls, and sections of this ordinance may be renumbered or relettered to accomplish such intention.

PASSED AND APPROVED this the 5th day of July, 2011.

M A Y O R

ATTEST:

City Clerk

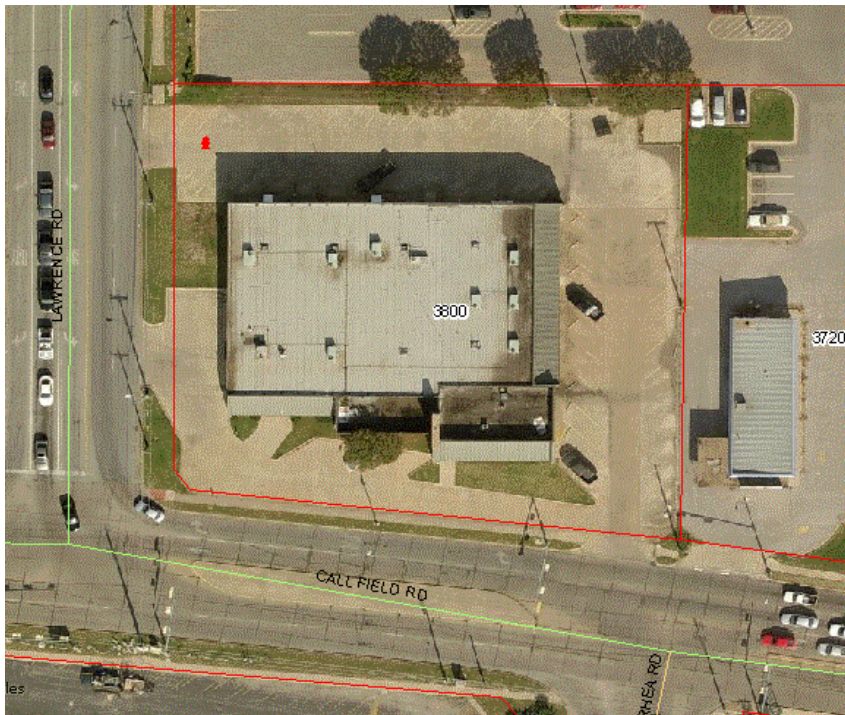
CITY COUNCIL AGENDA
July 5, 2011

ITEM/SUBJECT: Ordinance Appropriating \$1,330,000 From General Fund Reserves For The Cost Of Acquiring Lot 1, Block 1, Thompkins Addition From Strategic Services, Inc., Ratifying The Purchase Contract With Said Corporation, Providing For Execution Of Related Documents, Providing For Severability, Declaring An Emergency, And Declaring An Effective Date

INITIATING DEPT: Community Development

COMMENTARY: Due to traffic constrictions arising from two intersections in close proximity at Call Field Road, Lawrence Road, and Rhea Road, traffic backups are becoming a growing threat to the integrity of the traffic management system in that area of Wichita Falls. In December 2010, the Wichita Falls Metropolitan Planning Organization (WFMPO) West of Kemp Boulevard Mobility Study reaffirmed a proposed realignment of this intersection as a high priority project to improve traffic mobility in the area. The Tax Increment Financing (TIF) District #2 Board also reaffirmed this realignment as the highest priority project in the TIF #2 Project Plan at their November 17, 2010 meeting.

The proposed realignment will require the acquisition of Lot 1, Block 1, Thompkins Addition in the 3800 Block of Call Field Road from Strategic Services, Inc., which is shown below:



CITY COUNCIL AGENDA
July 5, 2011

ITEM/SUBJECT: Ordinance Appropriating \$1,330,000 From General Fund Reserves For The Cost Of Acquiring Lot 1, Block 1, Thompkins Addition From Strategic Services, Inc., Ratifying The Purchase Contract With Said Corporation, Providing For Execution Of Related Documents, Providing For Severability, Declaring An Emergency, And Declaring An Effective Date

INITIATING DEPT: Community Development

COMMENTARY: (cont'd): Strategic Services, Inc. has agreed to sell the aforementioned property to the City for the appraised value of \$1,300,000, subject to the City's appropriation of funds for said purchase and effective affirmation of the contract within 30 days after its execution on June 13, 2011.

The total cost of the project is estimated to be \$3.2 million, including property acquisition and demolition, construction, and contingency costs. Staff recommends that 20-year Certificates of Obligation (bonds) be issued to finance the project, with annual estimated debt service being approximately \$250,000. Debt service will be paid by the 4B Sales Tax Corporation, subject to reimbursement by Tax Increment Financing (TIF) District #2 in an amount not to exceed \$150,000 annually. This will result in a sharing of costs between the 4BSTC (approximately \$2.9 million) and TIF #2 (approximately \$2.0 million). Both boards have approved this funding and City Council will be asked to ratify these budget approvals, as well as approve a Notice of Intent to issue bonds at your July 19 City Council meeting.

This ordinance will appropriate the purchase and closing costs for property acquisition from the General Fund Reserves, with the intention of reimbursing the General Fund once the bond proceeds become available, which is expected to be later this year.

Staff recommends approval of this ordinance, approving the acquisition of the property described, and appropriating funds for purchase from the General Fund Reserves.

☒ **Assistant City Manager**

☒ **Director, Community Development**

CITY MANAGER'S REMARKS: The Rhea/Callfield Road Realignment Project has been a high priority of the City for several years to alleviate traffic congestion and help spur additional development in the TIF #2 District. The total project cost is estimated to be \$3.2 million and is expected to be financed with 20 Year Certificates of Obligation. The annual debt service on the Certificates (estimated to be \$250,000) will be shared between the TIF #2 Fund and the 4B Sales Tax Corporation. However, the proceeds from the issuance of Certificates will not be available until September or October 2011.

CITY COUNCIL AGENDA
July 5, 2011

ITEM/SUBJECT: Ordinance Appropriating \$1,330,000 From General Fund Reserves For The Cost Of Acquiring Lot 1, Block 1, Thompkins Addition From Strategic Services, Inc., Ratifying The Purchase Contract With Said Corporation, Providing For Execution Of Related Documents, Providing For Severability, Declaring An Emergency, And Declaring An Effective Date

INITIATING DEPT: Community Development

COMMENTARY: (cont'd): Therefore, it is recommended that General Fund Reserves in the amount of \$1,330,000 be used to begin the property acquisition for the project (Strategic Realtors), with the understanding that these reserves will be replenished when the proceeds arrive later this fiscal year.

☒ **City Manager**

ASSOCIATED INFORMATION: Ordinance

BUDGET CERTIFICATION (Account No./ Amount) (General Fund Reserves to Capital Bond Project Account) / (\$1,330,000)

☒ **Budget Office Review**

LEGAL CERTIFICATIONS:

☒ **APPROVED AS TO FORM:**
CODIFICATION:

☐ YES ☒ NO

City Attorney

ORDINANCE NO. _____

Ordinance Appropriating \$1,330,000 From General Fund Reserves For The Cost Of Acquiring Lot 1, Block 1, Thompkins Addition From Strategic Services, Inc., Ratifying The Purchase Contract With Said Corporation, Providing For Execution Of Related Documents, Providing For Severability, Declaring An Emergency, And Declaring An Effective Date

WHEREAS, due to traffic backups on Lawrence Road and Call Field Road, the City of Wichita Falls (City) has identified a critical need for intersection improvements at the intersections of Call Field Road, Lawrence Road, and Rhea Road;

WHEREAS, these intersection improvements require the acquisition of Lot 1, Block 1, Thompkins Addition from Strategic Services, Inc.; and,

WHEREAS, Strategic Services, Inc. has agreed to sell the aforementioned property to the City, subject to the City's appropriation of funds for said purchase and effective affirmation of the contract within 30 days after its execution on June 13, 2011.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WICHITA FALLS, TEXAS, THAT:

1. The amount of **\$1,330,000** is hereby appropriated from General Fund Reserves in the City's 2010-11 Budget for the aforementioned acquisition and services related thereto.

2. The City Manager's execution of the attached **Commercial Contract – Improved Property**, with Strategic Services, Inc. for the acquisition of Lot 1, Block 1, Thompkins Addition, Wichita Falls, Texas, is ratified and affirmed in the amount of \$1,300,000, plus closing costs as provided therein. The City Manager is further authorized to execute such other documents as necessary to acquire the aforementioned property and obtain reimbursement from third parties for all or part of the aforementioned expenditures.

3. If any section, paragraph, clause, or provision of this ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect any of the remaining provisions of this ordinance.

4. It is hereby found and determined that the subject matter of this ordinance affects the public health, safety, and general welfare of the citizens of Wichita Falls and that immediate effectiveness of this ordinance is necessary to meet the time contingencies in the contract and secure the aforementioned property to make necessary

improvements to the aforementioned intersections; therefore, this ordinance is declared to be an emergency measure and shall become effective immediately upon its passage.

PASSED AND APPROVED this day on July 5, 2011.

MAYOR

ATTEST:

City Clerk

COMMERCIAL CONTRACT – IMPROVED PROPERTY

1. **PARTIES:** Seller agrees to sell and convey to Buyer the Property described in Paragraph 2. Buyer agrees to buy the Property from Seller for the sales Price stated in Paragraph 3. The parties to this contract are:

Seller: Strategic Services, Inc.

Address: 3800 Call Field Road, Wichita Falls, Texas 76308

Phone: 940-322-8400

Fax: 940-696-9771

E-mail: jcaussey@ssiwf.com

Buyer: City of Wichita Falls

Address: 1300 – 7th Street, Wichita Falls, Texas 76301

Phone: 940-761-8816

Fax: 940-761-6872

E-mail: pat.hoffman@wichitafallstx.gov

2. **PROPERTY:**

A. “Property” means the real property situated in Wichita County, Texas at 3800 Call Field Road, Wichita Falls, Texas 76308 and that is legally described as Lot 1 Blk 1 Thompkins Add Abst 619

B. Seller will sell and convey the Property together with:

(1) All buildings and improvements:

(2) All rights, privileges, and appurtenances pertaining to the Property, including Seller’s right, title and interest in any minerals, utilities, adjacent streets, alleys, strips, gores and rights-of-way:

(3) No Seller’s tangible personal property located on the Property that is used in connection with Property’s operations including: phone system, filing cabinets, furniture and window treatments will be transferred.

3. **SALES PRICE:** At or before closing, Buyer will pay the following sales price for the Property: \$1,300,000.00.

4. **FINANCING:** Buyer will obtain from a third party monetary appropriations in the total amount of \$1,300,000.00 (See Special Provisions for Contingency).

5. **TITLE POLICY, SURVEY:**

A. Title Policy:

(1) Buyer at Buyer’s expense is responsible for the Owner’s Policy of Title Insurance (the title policy) in the amount of the sales price, dated at or after closing, insuring the Buyer against loss under the title policy, subject only to:

(a) those title exceptions permitted by this contract; and

(b) the standard printed exceptions contained in the promulgated form of title policy unless this contract provides otherwise.

(2) The standard printed exception as to discrepancies, conflicts, or shortages in area and boundary lines, or any encroachments or protrusions, or any

overlapping improvements will not be amended or deleted from the title policy.

(3) Seller will deliver to Buyer a copy of Seller's most recent survey of the Property.

6. PROPERTY CONDITION:

- A. Present Condition: Buyers accepts the Property in its present condition.
- B. Except for those matters that arise from the negligence of Seller or Seller's agents, Buyer is responsible for any claim, liability, encumbrance, cause of action, and expense resulting from Buyer's inspections, studies, or assessments, including any property damage or personal injury. This paragraph survives termination of this contract.

7. CLOSING.

- A. The date of the closing of the sales (closing date) will be on or before July 31, 2011.
- B. At closing, Seller will execute and deliver to Buyer, at Seller's expense a warranty deed. The deed must convey good and indefeasible title to the Property.

8. SPECIAL PROVISIONS:

- A. Seller will deliver possession of the property to Buyer within 90 days of closing and funding in its present condition, ordinary wear and tear excepted. In addition, Seller to list the City of Wichita Falls as a certificate holder on Seller's General Liability policy of \$2,000,000 being endorsed for a 30 day notice of cancellation in favor of the certificate holder, as long as, Seller occupies property after closing.
- B. The contract is contingent upon Buyer obtaining monetary appropriations in the amount of \$1,300,000.00.
- C. Buyer will apply for monetary appropriations promptly after the effective date. If Buyer cannot obtain monetary appropriations, Buyer may give Seller written notice within 30 days after the effective date of this contract and the contract will terminate. **If Buyer does not give such notice within the time required, this contract will no longer be subject to this contingency.**
- D. Seller has no tenants for any part of the property and will execute an affidavit to that effect at the time of closing.
- E. Seller shall not be entitled to any relocation payments in addition to purchase price.

9. SALES EXPENSES:

- A. Seller's Expenses: Seller will pay for the following at or before closing:
 - (1) releases of existing liens;
 - (2) release of Seller's loan liability, if applicable;
 - (3) tax statements or certificates;

- (4) preparation of the deed;
- (5) one-half of any escrow fee;
- (6) costs to record any documents to cure title objections that Seller must cure; and
- (7) other expenses that Seller will pay under other provisions of this contract.

B. Buyer's Expenses: buyer will pay for the following at or before closing:

- (1) all loan expenses and fees;
- (2) preparation fees of any deed of trust;
- (3) recording fees for the deed and any deed of trust;
- (4) premiums for flood and hazard insurance as may be required by Buyer;
- (5) One-half of any escrow fee; and
- (6) other expenses that buyer will pay under other provisions of this contract.

10. PRORATIONS:

- A. If the amount of ad valorem taxes for the year in which the sale closes is not available on the closing date, taxes will be prorated on the basis of taxes assessed in the previous year. If the taxes for the year in which the sales closes vary from the amount prorated at closing, the parties will adjust the proration's when the tax statements for the year in which the sale closes become available. This Paragraph 10A survives closing.
- B. Rollback Taxes: If seller changes the use of the Property before closing or if a denial of a special valuation on the Property claimed by Seller results in the assessment of additional taxes, penalties, or interest (assessments) for the periods before closing, the assessments will be the obligation of Seller. If this sale or Buyer's use of the Property after closing results in additional assessments for periods before closing, the assessments will be obligation of Byers. This Paragraph 10B survives closing.

11. DEFAULT:

- A. If Buyer fails to comply with this contract Buyer is in default and Seller may:
 - (1) terminate this contract or
 - (2) seek any other relief provided by law.
- B. If seller fails to comply with this contact, Seller is in default and Buyer may force specific performance, or seek such other relief as may be provided by law, or both.

12. CASUALTY LOSS AND CONDEMNATION:

If any part of the Property is damaged or destroyed by fire or other casualty after the effective date, Seller must restore the Property to its previous condition as soon as reasonably possible and not later that the closing date. If, with fault,

Seller is unable to do so Buyers may:

- A. terminate this contract or
- B. extend the time for performance up to 15 days and closing will be extended as necessary; or
- C. accept at closing: (1) the Property in its damaged condition; (2) an assignment of any insurance proceeds Seller is entitled to; or (3) a credit to the sales price in the amount of any unpaid deductible under the policy for the loss.

13. ATTORNEY'S FEES: If Buyer or Seller is a prevailing party in any legal proceeding brought under or with relation to this contract of this transaction, such party is entitled to recover from the non-prevailing parties all costs of such proceeding and reasonable attorney's fees. This Paragraph 13 survives termination of this contract.

14. NOTICES: All notices between the parties under this contract must be in writing and are effective when hand-delivered, mailed by certified mail return receipt requested, or sent by facsimile transmission to the parties addresses or facsimile numbers stated in Paragraph 1.

- A. Seller also consents to receive any notices by e-mail at Seller's e-mail address stated in Paragraph 1.
- B. Buyer also consents to receive any notices by e-mail at Buyer's e-mail address stated in Paragraph 1.

15. DISPUTE RESOLUTION: The parties agree to negotiate in good faith in an effort to resolve any dispute related to this contract that may arise. If the dispute cannot be resolved by negotiation, the parties will submit the dispute to mediation before resorting to arbitration or litigation and will equally share the cost of a mutually acceptable mediator. This paragraph survives termination of this contract. This paragraph does not preclude a party from seeking equitable relief from a court of competent jurisdiction.

16. AGREEMENT OF PARTIES:

- A. This contract is binding on the parties, their heirs, executors, representative, successors, and permitted assigns. This contract is to be construed in accordance with the laws of the State of Texas. If any term or condition of this contract shall be held to be invalid or unenforceable, the remainder of this contract shall not be affected thereby.
- B. This contract contains the entire agreement of the parties and may not be changed except in writing.
- C. If this contract is executed in a number of identical counterparts, each counterpart is an original and all counterparts, collectively, constitute one agreement.
- D. Addenda which are part of this contract are:
 - (1) Commercial Property Condition Statement.

(2) Addendum of Seller's Disclosure of Information on Lead-Based Paint and Lead-Based Paint Hazards (TAR 1940)

E. Buyer may not assign this contract.

- 17. TIME:** Time is of the essence in this contract. The parties require strict compliance with the times for performance. If the last day to perform under a provision of this contract falls on a Saturday, Sunday or legal holiday, the time for performance is extended until the end of the next day which is not a Saturday or Sunday, or legal holiday.
- 18. EFFECTIVE DATE:** The effective date of this contract for the purpose of performance of all obligations is the date all parties execute this contract.
- 19. CONTRACT AS OFFER:** The execution of this contract by the first party constitutes an offer to buy or sell the Property. Unless the other party accepts the offer by 5:00 p.m., in the time zone in which the Property is located, on or before June 10, 2011 the offer will lapse and become null and void.

SELLER: STRATEGIC SERVICES, INC. **BUYER:** _____

BY: JOHN CAUSSEY

BY: _____

SIGNATURE _____

SIGNATURE _____

Title: President

Title: _____



TEXAS ASSOCIATION OF REALTORS®
COMMERCIAL PROPERTY CONDITION STATEMENT

USE OF THIS FORM BY PERSONS WHO ARE NOT MEMBERS OF THE TEXAS ASSOCIATION OF REALTORS® IS NOT AUTHORIZED.
©Texas Association of REALTORS®, Inc. 2010

CONCERNING THE PROPERTY AT: 3800 Call Field Road

THIS IS A DISCLOSURE OF THE UNDERSIGNED'S KNOWLEDGE OF THE CONDITION OF THE PROPERTY AS OF THE DATE SIGNED. IT IS NOT A SUBSTITUTE FOR ANY INSPECTIONS OR WARRANTIES A BUYER OR TENANT MAY WISH TO OBTAIN. IT IS NOT A WARRANTY OF ANY KIND BY SELLER, SELLER'S AGENTS, LANDLORD, LANDLORD'S AGENTS OR ANY OTHER AGENT.

PART I - Complete if Property is Improved or Unimproved

Are you (Seller or Landlord) aware of:

Aware **Not
Aware**

- (1) any of the following environmental conditions on or affecting the Property:
- (a) radon gas? ☐ ☒
 - (b) asbestos components:
 - (i) friable components? ☐ ☒
 - (ii) non-friable components? ☐ ☒
 - (c) urea-formaldehyde insulation? ☐ ☒
 - (d) endangered species of their habitat? ☐ ☒
 - (e) wetlands? ☐ ☒
 - (f) underground storage tanks? ☐ ☒
 - (g) leaks in any storage tanks (underground or above-ground)? ☐ ☒
 - (h) lead-based paint? ☐ ☒
 - (i) hazardous materials or toxic waste? ☐ ☒
 - (j) open or closed landfills on or under the surface of the Property? ☐ ☒
 - (k) external conditions materially and adversely affecting the Property such as nearby landfills, smelting plants, burners, storage facilities of toxic or hazardous materials, refiners, utility transmission lines, mills, feed lots, and the like? ☐ ☒
 - (l) any activity relating to drilling or excavation sites for oil, gas, or other minerals? ☐ ☒
- (2) previous environmental contamination that was on or that materially and adversely affected the Property, including but not limited to previous environmental conditions listed in Paragraph 1(a)-(l)? ☐ ☒
- (3) any part of the Property lying in a special flood hazard area (A or V Zone)? ☐ ☒
- (4) any improper drainage onto or away from the Property? ☐ ☒
- (5) any fault line or near the Property that materially and adversely affects the Property? ☐ ☒
- (6) outstanding mineral rights, exceptions, or reservations of the Property held by others? ☐ ☒
- (7) air space restrictions or easements on or affecting the Property? ☐ ☒
- (8) unrecorded or unplatted agreements for easements, utilities, or access on or to the Property? ☐ ☒

(TAR-1408) 1-26-10

Initialed by Seller or Landlord: JS

ML

and Buyer or Tenant: DL

Page 1 of 4

Strategic Realtors 3800 Call Field Road Wichita Falls, TX 76308
Phone: 940.322-8400

Fax: 940-696-9771

John Caussey

Untitled

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- | | <u>Aware</u> | <u>Not
Aware</u> |
|---|-------------------------------------|-------------------------------------|
| (9) special districts in which the Property lies (for example, historical districts, development districts, extraterritorial jurisdictions, or others)? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (10) pending changes in zoning, restrictions, or in physical use of the Property? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (11) your receipt of any notice concerning any likely condemnation, planned streets, highways, railroads, or developments that would materially and adversely affect the Property (including access or visibility)? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| (12) lawsuits affecting title to or use or enjoyment of the Property? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (13) your receipt of any written notices of violations of zoning, deed restrictions, or government regulations from EPA, OSHA, TCEQ, or other government agencies? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (14) common areas or facilities affiliated with the Property co-owned with others? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (15) an owners' or tenants' association or maintenance fee or assessment affecting the Property? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| If aware, name of association: _____ | | |
| Name of manager: _____ | | |
| Amount of fee or assessment: \$ _____ per _____ | | |
| Are fees current through the date of this notice? <input type="checkbox"/> yes <input type="checkbox"/> no <input type="checkbox"/> unknown | | |
| (16) subsurface structures, hydraulic lifts, or pits on the Property? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (17) intermittent or weather springs that affect the Property? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (18) any material defect in any irrigation system, fences, or signs on the Property? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (19) conditions on or affecting the Property that materially affect the health or safety of an ordinary individual? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| If you are aware of any of the conditions listed above, explain. (Attach additional information if needed.) | | |

Property being purchased by City for street improvement

PART 2 – Complete only if Property is Improved

A. Are you (Seller or Landlord) aware of any material defects in any of the following on the Property?

- | | <u>Aware</u> | <u>Not
Aware</u> | <u>Not
Appl.</u> |
|--|--------------------------|-------------------------------------|-------------------------------------|
| (1) <u>Structural Items:</u> | | | |
| (a) foundation systems (slabs, columns, trusses, bracing, crawl spaces, piers, beams, footings, retaining walls, basement, grading)? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| (b) exterior walls? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| (c) fireplaces and chimneys? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (d) roof, roof structure, or attic (covering, flashing, skylights, insulation, roof penetrations, ventilation, gutters and downspouts, decking)? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| (e) windows, doors, plate glass, or canopies | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

(TAR-1408) 1-26-10 Initialed by Seller or Landlord: JE and Buyer or Tenant: DL Page 2 of 4

	<u>Aware</u>	<u>Not Aware</u>	<u>Not Appl.</u>
(2) <u>Plumbing Systems:</u>			
(a) water heaters or water softeners?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(b) supply or drain lines?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(c) faucets, fixtures, or commodes?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(d) private sewage systems?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(e) pools or spas and equipments?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(f) sprinkler systems?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(g) water coolers?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(h) private water wells?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(i) pumps or sump pumps?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(3) <u>HVAC Systems:</u> any cooling, heating, or ventilation systems?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(4) <u>Electrical Systems:</u> service drops, wiring, connections, conductors, plugs, grounds, power, polarity, switches, light fixtures, or junction boxes?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(5) <u>Other Systems or Items:</u>			
(a) security or fire detection systems?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(b) porches or decks?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(c) gas lines?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(d) garage doors and door operators?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(e) loading doors or docks?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(f) rails or overhead cranes?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(g) elevators or escalators?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(h) parking areas, drives, steps, walkways?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(i) appliances or built-in kitchen equipment?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

If you are aware of material defects in any of the items listed under Paragraph A, explain. (Attach additional information if needed.)

GARAGE DOOR OPENER IS NOT WORKING
sidewalk HAS CRACKS from CAR TRAFFIC

B. Are you (Seller or Landlord) aware of:

	<u>Aware</u>	<u>Not Aware</u>
(1) any of the following water or drainage conditions materially and adversely affecting the Property:		
(a) ground water?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(b) water penetration?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(c) previous flooding or water drainage?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(d) soil erosion or water ponding?	<input type="checkbox"/>	<input checked="" type="checkbox"/>

(TAR-1408) 1-26-10 Initialed by Seller or Landlord: [Signature] and Buyer or Tenant: DL Page 3 of 4

- | | <u>Aware</u> | <u>Not
Aware</u> |
|---|--------------------------|-------------------------------------|
| (2) previous structural repair to the foundation systems on the Property? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (3) settling or soil movement materially and adversely affecting the Property? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (4) pest infestation from rodents, insects, or other organisms on the Property? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (5) termite or wood rot damage on the Property needing repair? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (6) mold to the extent that it materially and adversely affects the Property? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (7) mold remediation certificate issued for the Property in the previous 5 years? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| <i>if yes, attach a copy of the mold remediation certificate.</i> | | |
| (8) previous termite treatment on the Property? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (9) previous fires that materially affected the Property? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (10) modifications made to the Property without necessary permits or not in compliance
with building codes in effect at the time? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (11) any part, system, or component in or on the Property not in compliance with
the Americans with Disabilities Act or the Texas Architectural Barrier Statute? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

If you are aware of any conditions described under Paragraph B, explain. (Attach additional information, if needed.)

The undersigned acknowledges receipt of the foregoing statement.

Seller or Landlord:

Strategic Services, Inc.
By: *John Conway Pres.*

By (signature): _____

Printed Name: _____

Title: _____ Date: _____

Buyer or Tenant:

Darion Laiker
By: *Darion Laiker*

By (signature): _____

Printed Name: _____

Title: _____ Date: _____

By: _____

By (signature): _____

Printed Name: _____

Title: _____ Date: _____

By: _____

By (signature): _____

Printed Name: _____

Title: _____ Date: _____

NOTICE TO BUYER OR TENANT: The broker representing Seller or Landlord, and the broker representing you advise you that this statement was completed by Seller or Landlord, as of the date signed. The brokers have relied on this statement as true and correct and have no reason to believe it to be false or inaccurate. YOU ARE ENCOURAGED TO HAVE AN INSPECTOR OF YOUR CHOICE INSPECT THE PROPERTY.

(TAR-1408) 1-26-10

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APPROVED BY THE TEXAS REAL ESTATE COMMISSION
**ADDENDUM FOR SELLER'S DISCLOSURE OF INFORMATION
 ON LEAD-BASED PAINT AND LEAD-BASED PAINT HAZARDS
 AS REQUIRED BY FEDERAL LAW**

02-09-2004

CONCERNING THE PROPERTY AT 3800 Call Field Road Wichita Falls, TX
 (Street Address and City)

A. LEAD WARNING STATEMENT: "Every purchaser of any interest in residential real property on which a residential dwelling was built prior to 1978 is notified that such property may present exposure to lead from lead-based paint that may place young children at risk of developing lead poisoning. Lead poisoning in young children may produce permanent neurological damage, including learning disabilities, reduced intelligence quotient, behavioral problems, and impaired memory. Lead poisoning also poses a particular risk to pregnant women. The seller of any interest in residential real property is required to provide the buyer with any information on lead-based paint hazards from risk assessments or inspections in the seller's possession and notify the buyer of any known lead-based paint hazards. A risk assessment or inspection for possible lead-paint hazards is recommended prior to purchase."

NOTICE: Inspector must be properly certified as required by federal law.

B. SELLER'S DISCLOSURE:

1. PRESENCE OF LEAD-BASED PAINT AND/OR LEAD-BASED PAINT HAZARDS (check one box only):

- ☐ (a) Known lead-based paint and/or lead-based paint hazards are present in the Property (explain): _____
☒ (b) Seller has no actual knowledge of lead-based paint and/or lead-based paint hazards in the Property.

2. RECORDS AND REPORTS AVAILABLE TO SELLER (check one box only):

- ☐ (a) Seller has provided the purchaser with all available records and reports pertaining to lead-based paint and/or lead-based paint hazards in the Property (list documents): _____
☐ (b) Seller has no reports or records pertaining to lead-based paint and/or lead-based paint hazards in the Property.

C. BUYER'S RIGHTS (check one box only):

- ☐ 1. Buyer waives the opportunity to conduct a risk assessment or inspection of the Property for the presence of lead-based paint or lead-based paint hazards.
☒ 2. Within ten days after the effective date of this contract, Buyer may have the Property inspected by inspectors selected by Buyer. If lead-based paint or lead-based paint hazards are present, Buyer may terminate this contract by giving Seller written notice within 14 days after the effective date of this contract, and the earnest money will be refunded to Buyer.

D. BUYER'S ACKNOWLEDGMENT (check applicable boxes):

- ☐ 1. Buyer has received copies of all information listed above.
☐ 2. Buyer has received the pamphlet *Protect Your Family from Lead in Your Home*.

E. BROKERS' ACKNOWLEDGMENT: Brokers have informed Seller of Seller's obligations under 42 U.S.C. 4852d to:

(a) provide Buyer with the federally approved pamphlet on lead poisoning prevention; (b) complete this addendum; (c) disclose any known lead-based paint and/or lead-based paint hazards in the Property; (d) deliver all records and reports to Buyer pertaining to lead-based paint and/or lead-based paint hazards in the Property; (e) provide Buyer a period of up to 10 days to have the Property inspected; and (f) retain a completed copy of this addendum for at least 3 years following the sale. Brokers are aware of their responsibility to ensure compliance.

F. CERTIFICATION OF ACCURACY: The following persons have reviewed the information above and certify, to the best of their knowledge, that the information they have provided is true and accurate.

1 John Caussey 6-13-11 John Caussey 6-8-11
 Buyer City of Wichita Falls Date Seller Strategic Services, Inc. Date

 Buyer Date Seller Date

 Other Broker Date Listing Broker Date

The form of this addendum has been approved by the Texas Real Estate Commission for use only with similarly approved or promulgated forms of contracts. Such approval relates to this contract form only. TREC forms are intended for use only by trained real estate licensees. No representation is made as to the legal validity or adequacy of any provision in any specific transactions. It is not suitable for complex transactions. Texas Real Estate Commission, P.O. Box 12188, Austin, TX 78711-2188, 1-800-250-8732 or (512) 459-6544 (<http://www.trec.state.tx.us>)

(TAR-1906) 2-9-2004

Strategic Realtors 3800 Call Field Road Wichita Falls, TX 76308
 John Caussey

Produced with ZipForm® by zipLogix 18070 Fifteen Mile Road, Fraser, Michigan 48026 www.zipLogix.com

Phone: 940.322-8400 Fax: 940.696-9771

01A TREC No. OP-L

Page 1 of 1

Untitled

CITY COUNCIL AGENDA
July 5, 2011

ITEM/SUBJECT: Resolution Authorizing The Wichita County Appraisal District To Reappraise Property Damaged In Fires That Occurred In Wichita Falls On April 15, 2011, As Declared In The Governor's Disaster Declaration.

INITIATING DEPT: Finance Department

COMMENTARY: Section 23.02 of the Texas Property Tax Code allows a governing body of a taxing unit that is located in an area declared to be a natural disaster area by the Governor to authorize the reappraisal of all property damaged in the disaster at its market value immediately after the disaster. The fires that occurred within the city limits on April 15, 2011 qualify for such a reappraisal process. Essentially, this authorization would provide some property tax relief to those property owners that were affected by the fires for the 2011 tax year.

The Tax Code provides that if property damaged by fire disaster is reappraised, the governing body shall provide for prorating the taxes on the property for the year in which the disaster occurred. For example, since the fires occurred on April 15, 2011, the taxes will be prorated at approximately 29% at the value of the property on January 1, 2011 and 71% at the value of the property after taking the fire damages into consideration.

This action will not have a significant financial impact to the City, but will provide some property tax relief to the victims of the fires. We have been informed by the Wichita County Appraisal District that 14 properties were affected by the fires inside the city limits, 3 of which were total losses and 1 had major damage. The Appraisal District estimates that approximately \$475,000 to \$500,000 in property value losses will result from this reappraisal, which equates to \$2,970 to \$3,126 less in taxes paid to the City. City Council approval is recommended.

☒ Assistant City Manager/CFO

CITY MANAGER'S REMARKS: Staff is recommending your approval of the attached resolution authorizing the reappraisal of properties affected by the fires of April 15th. The Texas Property Tax Code allows a governing body of a taxing unit that is located in an area declared to be a natural disaster area by the Governor to authorize the reappraisal of all property damaged in the disaster at its market value immediately after the disaster. We do not believe this action will have a significant financial impact to the overall City budget, but it will provide some property tax relief to the victims of the fires.

☒ **City Manager**

CITY COUNCIL AGENDA
July 5, 2011

ITEM/SUBJECT: Resolution Authorizing The Wichita County Appraisal District To Reappraise Property Damaged In Fires That Occurred In Wichita Falls On April 15, 2011, As Declared In The Governor's Disaster Declaration.

INITIATING DEPT: Finance Department

ASSOCIATED INFORMATION: Resolution

BUDGET CERTIFICATION (Account No./ Amount) (- -) / ()

☐ **Budget Office Review**

LEGAL CERTIFICATIONS:

☒ **APPROVED AS TO FORM:**

CODIFICATION:

☐ YES ☒ NO

City Attorney

RESOLUTION NO. _____

**Resolution Authorizing The Wichita County Appraisal District
To Reappraise Property Damaged In Fires That Occurred In
Wichita Falls On April 15, 2011, As Declared In The
Governor's Disaster Declaration**

WHEREAS, Texas Tax Code § 23.01(a) provides "except as otherwise provided by this chapter, all taxable property is appraised at its market value as of January 1";

WHEREAS, Texas Tax Code § 23.02 allows a governing body of a taxing unit that is located in an area declared to be a natural disaster area by the Governor to authorize the reappraisal of all property damaged in the disaster at its market value immediately after the disaster, pursuant to the following parts thereof:

- (a) The governing body of a taxing unit that is located partly or entirely inside an area declared to be a natural disaster area by the governor may authorize reappraisal of all property damaged in the disaster at its market value immediately after the disaster.
- (b) If a taxing unit authorizes a reappraisal pursuant to this section, the appraisal office shall complete the reappraisal as soon as practicable. . . .
- (c) A taxing unit that authorizes a reappraisal under this section must pay the appraisal district all the costs of making the reappraisal. . . .
- (d) If property damaged in a natural disaster is reappraised as provided by this section, the governing body shall provide for prorating the taxes on the property for the year in which the disaster occurred. . . .

WHEREAS, the City Council finds that the fires that occurred in the City on April 15, 2011 were "declared to be a natural disaster area by the governor" pursuant to the attached **Proclamation** in accordance with Texas Tax Code §23.02, qualifying affected properties for the reappraisal.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WICHITA FALLS, TEXAS, THAT:

The City Council authorizes the Wichita County Appraisal District to reappraise the properties within the City limits that were adversely affected by the April 15, 2011 fire disaster and to make adjustments to the tax rolls as authorized by Chapter 23 of the Texas Tax Code for said properties.

PASSED AND APPROVED this the 5th day of July, 2011.

MAYOR

ATTEST:

City Clerk

PROCLAMATION
BY THE
Governor of the State of Texas

TO ALL TO WHOM THESE PRESENTS SHALL COME:

I, RICK PERRY, Governor of the State of Texas, issued an Emergency Disaster Proclamation on December 21, 2010, as extreme fire hazard posed a threat of imminent disaster in specified counties in Texas.

WHEREAS, the extreme fire hazard continues to create a threat of disaster for the people in the State of Texas.

WHEREAS, the state of disaster includes the counties of Anderson, Andrews, Angelina, Aransas, Archer, Armstrong, Atascosa, Austin, Bailey, Bandera, Bastrop, Baylor, Bee, Bell, Bexar, Blanco, Borden, Bosque, Bowie, Brazoria, Brazos, Brewster, Briscoe, Brooks, Brown, Burleson, Burnet, Caldwell, Calhoun, Callahan, Cameron, Camp, Carson, Cass, Castro, Chambers, Cherokee, Childress, Clay, Cochran, Coke, Coleman, Collingsworth, Colorado, Collin, Comal, Comanche, Concho, Cooke, Coryell, Cottle, Crane, Crockett, Crosby, Culberson, Dallam, Dallas, Dawson, Deaf Smith, Delta, Denton, DeWitt, Dickens, Dimmit, Donley, Duval, Eastland, Ector, Edwards, Ellis, El Paso, Erath, Falls, Fannin, Fayette, Fisher, Floyd, Foard, Fort Bend, Franklin, Freestone, Frio, Gaines, Galveston, Garza, Gillespie, Glasscock, Goliad, Gonzales, Gray, Grayson, Gregg, Grimes, Guadalupe, Hale, Hall, Hamilton, Hansford, Hardeman, Hardin, Harris, Harrison, Hartley, Haskell, Hays, Hemphill, Henderson, Hidalgo, Hill, Hockley, Hood, Hopkins, Houston, Howard, Hudspeth, Hunt, Hutchison, Irion, Jack, Jackson, Jasper, Jeff Davis, Jefferson, Jim Hogg, Jim Wells, Johnson, Jones, Karnes, Kaufman, Kendall, Kenedy, Kent, Kerr, Kimble, King, Kinney, Kleberg, Knox, La Salle, Lamar, Lamb, Lampasas, Lavaca, Lee, Leon, Liberty, Limestone, Lipscomb, Live Oak, Llano, Loving, Lubbock, Lynn, Madison, Marion, Martin, Mason, Matagorda, Maverick, McCulloch, McLennan, McMullen, Medina, Menard, Midland, Milam, Mills, Mitchell, Montague, Montgomery, Moore, Morris, Motley, Nacogdoches, Navarro, Newton, Nolan, Nueces, Ochiltree, Oldham, Orange, Palo Pinto, Panola, Parker, Parmer, Pecos, Polk, Potter, Presidio, Rains, Randall, Reagan, Real, Red River, Reeves, Refugio, Roberts, Robertson, Rockwall, Runnels, Rusk, Sabine, San Augustine, San Jacinto, San Patricio, San Saba, Schleicher, Scurry, Shackelford, Shelby, Sherman, Smith, Somervell, Starr, Stephens, Sterling, Stonewall, Sutton, Swisher, Tarrant, Taylor, Terrell, Terry, Throckmorton, Titus, Tom Green, Travis, Trinity, Tyler, Upshur, Upton, Uvalde, Val Verde, Van Zandt, Victoria, Walker, Waller, Ward, Washington, Webb, Wharton, Wheeler, Wichita, Wilbarger, Willacy, Williamson, Wilson, Winkler, Wise, Wood, Yoakum, Young, Zapata and Zavala.

THEREFORE, in accordance with the authority vested in me by Section 418.014 of the Texas Government Code, I do hereby renew the disaster proclamation and direct that all necessary measures, both public and private as authorized under Section 418.017 of the code, be implemented to meet that disaster.

As provided in Section 418.016 of the code, all rules and regulations that may inhibit or prevent prompt response to this threat are suspended for the duration of the state of disaster.

In accordance with the statutory requirements, copies of this proclamation shall be filed

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
12:30 PM O'CLOCK
JUN 11 2011

with the applicable authorities.



IN TESTIMONY WHEREOF, I
have hereunto signed my name
and have officially caused the
Seal of State to be affixed at my
Office in the City of Austin,
Texas, this the 11th day of June
2011.

Rick Perry
RICK PERRY
Governor

Attested by:

Esperanza Andrade
ESPERANZA "HOPE" ANDRADE
Secretary of State

CITY COUNCIL AGENDA
July 5, 2011

ITEM/SUBJECT: Resolution Authorizing The City Manager To Execute A Memorandum Of Understanding With Noresco, LLC., To Conduct An Audit and Provide the City With A Report That Details Potential Energy Conservation Measures And Related Equipment Modernization with implementation costs that can be repaid with energy savings, rebates, incentives, and grants, in an amount of \$60,000

INITIATING DEPT: Finance

COMMENTARY: For the last several months, the City staff has been working with several Energy Services' Companies (ESCO's) to ascertain if the City has potential projects that would qualify under an energy performance contract. Energy performance contracting is an agreement between an ESCO and the City, under which the ESCO designs, engineers, and implements needed facility improvements and upgrades, that will produce energy savings from utilizing more efficient equipment and processes. The ESCO guarantees the owner that a specific amount of savings will occur over the course of the performance contract. The guaranteed savings from reduced utility bills and maintenance savings are then used to pay back the initial capital investment in equipment and installation.

Preliminary analyses indicate that the City has several projects that would qualify for energy performance contracting. Some of these projects may include lighting retrofits, energy management systems, power factor correction, window film, digester biogas, thermal equalizers, solar power generation, etc. Due to this initial analysis, the staff requested proposals from qualified ESCO's to perform a more detailed audit report that details energy conservation measures, cost estimates for equipment modernization, and guaranteed payback periods for those measures. In response to this RFP, the City received 7 proposals, all of which were from qualified firms. A committee of staff, including Public Works, Traffic and Transportation, MPEC, Building Maintenance, and City Management evaluated the written materials on the firm's business and financial qualifications, personnel, project plans, and related experience. After that evaluation, the committee conducted personal interviews of 4 firms to get a better understanding of each firm's expertise. Based upon those interviews, the committee chose NORESKO to enter into contract negotiations, and it is recommended that this resolution be approved to authorize the City Manager to enter into a MOU for the energy audit. The cost of this audit is \$60,000 and will be rolled into the cost for a future guaranteed energy performance contract and paid back through future energy savings. The audit is expected to take approximately 75 to 90 days to complete.

CITY COUNCIL AGENDA
July 5, 2011

ITEM/SUBJECT: Resolution Authorizing The City Manager To Execute A Memorandum Of Understanding With Noresco, LLC., To Conduct An Audit and Provide the City With A Report That Details Potential Energy Conservation Measures And Related Equipment Modernization with implementation costs that can be repaid with energy savings, rebates, incentives, and grants, in an amount of \$60,000

INITIATING DEPT: Finance

COMMENTARY (Cont.):

Once the audit is complete and the projects have been selected, staff will bring back to the City Council a Performance Contract that details the projects, with cost estimates, and guaranteed payback periods.

☒ Asst City Mgr/CFO

CITY MANAGER'S REMARKS: The staff has received proposals from energy service companies to conduct an energy audit of several city facilities. Energy service companies are experts that evaluate facilities and recommend potential equipment modernizations and retrofits that can be financed with guaranteed energy savings over a period of a performance contract. This resolution authorizes me to sign an agreement with NORESCO to conduct the energy audit in the amount of \$60,000. This audit will take about 75 to 90 days to complete, and will identify several projects that can be paid for with annual energy savings through a guaranteed performance contract. The cost of the audit will be rolled into project costs and paid for through future energy savings. It is recommended for approval.

☒ **City Manager**

ASSOCIATED INFORMATION: Resolution

BUDGET CERTIFICATION (Account No./ Amount) () / (\$60,000 to be paid from future energy savings)

☒ **Budget Office Review**

LEGAL CERTIFICATIONS:

☒ **APPROVED AS TO FORM:**

CODIFICATION:

☐ YES ☒ NO

City Attorney

RESOLUTION NO. _____

Resolution Authorizing The City Manager To Execute A Memorandum Of Understanding With Noresco, LLC., To Conduct An Audit And Provide The City With A Report That Details Potential Energy Conservation Measures And Related Equipment Modernization With Implementation Costs That Can Be Repaid With Energy Savings, Rebates, Incentives, And Grants, In An Amount Of \$60,000

WHEREAS, energy savings performance contracts allow energy service companies to design, engineer, and implement facility improvements and upgrades to local government facilities that produce energy savings from utilizing more efficient equipment and processes, and Texas Local Government Code Chapter 302 provides procedures to facilitate entry into these contracts;

WHEREAS, under an energy savings performance contract, the energy service company guarantees the owner that a specific amount of savings will occur over the course of the performance contract from reduced utility bills and maintenance savings, and that savings can be used to pay back the initial capital investment; and

WHEREAS, City staff requested proposals from qualified energy service companies, reviewed those proposals, interviewed finalists, and selected Noresco, LLC as the most qualified firm to perform this work, and Noresco will begin this process by providing a detailed energy audit of the City's facilities to identify potential energy conservation measures that will pay for their initial investment through future energy savings.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WICHITA FALLS, TEXAS, THAT:

The City Manager is authorized to sign the attached **Memorandum of Understanding** (attached without selected exhibits thereto), subject to such changes and exhibits as approved by the City Attorney, with Noresco LLC., to conduct an audit and provide the City with a report that details potential energy conservation measures and related equipment modernization with implementation costs that can be repaid with energy savings, rebates, incentives, and grants, in an amount of approximately \$60,000.

PASSED AND APPROVED this the 5th day of July, 2011.

MAYOR

ATTEST:

City Clerk

Memorandum of Understanding

ENERGY SERVICES - PROJECT DEVELOPMENT STAGE

City of Wichita Falls

1300 Seventh Street

Wichita Falls, Tx. 76301

This memorandum, when counter-signed on behalf of NORESKO, LLC ("NORESCO"), shall constitute a Memorandum of Understanding ("MOU") between the City of Wichita Falls, (the "City") and NORESKO for NORESKO to conduct an Investment Grade Audit for the purpose of providing the City with a report that details the potential electric, gas, trash, sewer, and/or water conservation measures and related equipment modernization at the City's locations listed in Exhibit A, which is hereby incorporated by reference. Unless expressly reserved herein, the terms of this MOU are binding on NORESKO and the City.

(1) Scope of Analysis and Report

Through the Investment Grade Audit, NORESKO will identify and develop energy and water conservation strategies and energy and water related modernization projects. NORESKO will identify all applicable funding sources for implementing the identified energy and water conservation strategies, including private financing, public utility incentives and grants. NORESKO shall compile such energy and water conservation strategies and potential funding sources in a report ("Investment Grade Audit Report" or "Report"), which NORESKO will present to the City as outlined in **Exhibit B – Scope of Services**, which is hereby incorporated by reference. Delivery of the Report will be based on the mutually agreed upon schedule which NORESKO will develop as part of the Investment Grade Audit Plan.

All potential solutions and funding will be structured, to the extent practical, within the framework established by Local Government Code 302, self-funding energy-related projects for public agencies. The appropriate City personnel will assist NORESKO project development staff with the creation of the Investment Grade Audit Report by providing historical energy records, access to buildings and equipment, accurate occupancy levels, building operating schedules, and any other reasonable information necessary for the calculations in the Report. During the preparation of the Report for the City, NORESKO and the City intend to commence negotiations, on an exclusive basis, for the purpose of entering into an Energy Services Agreement ("ESA" or the "Agreement") - in substantially the same form as **Exhibit C** - to implement all or some of the energy and water conservation measures identified in the Investment Grade Audit Report.

The Report will include the following technical, administrative or financial requirements in the Report:

1. The project will be self-funding from energy savings, rebates, incentives, and grants from sources other than local government entities.

2. The project will be self-funding and budget neutral on a twenty (20) year basis;
3. The City can elect to fund any portion of the project with operational or capital budgets.
4. The Report will be presented in a manner that will allow the project's payback to be analyzed on the basis of its components and enable the project to be adopted in whole or in part.
5. Cost projections will include estimates of any disposal and remediation costs that will be necessitated by the components of the project.

(2) Ownership and Reuse of Documents

- (a) The original of all documents, including but not limited to; drawings, calculations, test results, recommendations, technical specifications, renderings, exhibits, models, prints, photographs, or other materials prepared pursuant to this MOU by NORESO shall be and remain the property of the City upon full payment to NORESO of the Investment Grade Audit Report fees or execution of an ESA with NORESO.
- (b) Reuse of the design and/or corresponding contract documents or portions thereof by the City shall be limited to the City. When reuse is contemplated, all title blocks and references to NORESO shall be removed from drawings to the extent legally permissible unless written consent for reuse is given by NORESO.
- (c) The City shall release NORESO, its officers, employees and agents from and against any and all liability to the City arising out of the reuse of the design and/or corresponding contract documents or portion thereof without the written consent of NORESO.

(3) Confidentiality

The Report may contain sensitive NORESO information that is confidential and proprietary. Any information intended by NORESO to be confidential shall be marked "CONFIDENTIAL" by NORESO at the top and bottom of each page. The City is authorized to use this marked confidential and proprietary information solely for the purpose of evaluating a business relationship with NORESO. The City acknowledges that the release of the information contained in the Report to other parties could be damaging to NORESO, and agrees, to the extent legally permissible, it shall not disclose the information contained therein to any other party, except the Texas Attorney General, a court, or appropriate City personnel on a need-to-know basis (who will be bound by the same confidentiality restrictions), without the written permission of NORESO. The requirements of this section shall survive termination of this MOU.

(4) Term of MOU

The Term of this MOU shall be one hundred eighty (180) days from the execution date of this MOU unless earlier terminated in accordance with this MOU, provided that the City and NORESO may by written amendment to this MOU, duly executed by both parties, extend the Term of this MOU for an additional period of time.

(5) Compensation and Payment

The fee associated with the Report analysis and preparation will be included in the total project price. A list of buildings and square footage is detailed in **Exhibit A**. At the City's option, the payment of fees associated with this MOU may be deferred and paid as part of an ESA between the City and NORESO. Only if the ESA is not executed would NORESO ask for a separate payment of the Report fee of **\$60,000**, which shall be payable to NORESO within thirty (30) days of receipt of the associated invoice. If the project contemplated in the Report or a significant part thereof moves forward into construction through an ESA, NORESO would account for the Investment Grade Audit Report expense within the ESA as part of the capital funding. In this case, the Investment Grade Audit Report expense will be based on the actual hours expended multiplied by the hourly rates agreed to by the City and NORESO.

(6) Termination

Either party may terminate this MOU by providing the other party with written notice of termination no less than thirty (30) days prior to the date of termination. In the event of such early termination of this MOU by the City, the City shall compensate NORESO in accordance with the percentage of the work performed to analyze and prepare the Report prior to termination. For purposes of this clause, the percentage of the work attributable to each phase of preparation of the work pursuant to this MOU is described in **Exhibit B** adjusted for the progress made by NORESO in each phase as demonstrated by NORESO.

(7) Governing Law and Dispute Resolution.

This MOU shall be governed by and construed in accordance with the laws of the State of Texas. Any controversy or claim arising out of or relative to this Agreement or the breach thereof that is not adjusted or disposed of by mutual agreement between the Parties, shall be first subjected to mediation in Wichita County, Texas, with the expense thereof to be shared equally by the parties to the mediation. Failure of either party to voluntarily enter mediation within 30 days after demand shall waive this requirement.

(8) Indemnification and Limit of Liability

Notwithstanding any other provision of this MOU, the City and NORESO's aggregate liability pursuant to this MOU shall in all cases be limited to the sum of the payments to be received by NORESO under Section 5 of this MOU.

NORESOS expressly agrees to release, defend, indemnify and hold harmless the CITY and the City's officers, agents, and employees from liability for injuries to NORESO or any employee, agent or subcontractor of NORESO, regardless of whether the injury or damage is caused in whole or in part by any condition of property owned or controlled by the CITY other than concealed conditions that NORESO should not have been reasonably expected to discover or anticipate. This indemnity shall not apply to any claim concerning work performed by any licensed engineer or architect to the extent to which the engineer or architect is prohibited from indemnifying a governmental entity pursuant to Tex. Local Gov't Code § 271.904.

(9) Force Majeure

In the event a Party is prevented from performing under this MOU by circumstances beyond its reasonable control (for example, act of God, war or terrorism) then any obligation owing by such Party shall be suspended without liability for the period during which the Party is so prevented from performing.

(10) Notice

All notices or demands to be given under this MOU by either Party to the other shall be in writing and given either by: (a) personal service or (b) U.S. Mail, mailed either by registered or certified mail, return receipt requested, with postage prepaid. Service shall be considered given when received if personally serviced or if mailed on the third day after deposit in any U.S. Post Office. The address to which notices or demands may be given by either Party may be changed by written notice given in accordance with the notice provisions of this section. At the date of this MOU, the addresses of the parties are as follows:

City of Wichita Falls

Jim Dockery
Assistant City Manager/CFO
1300 Seventh Street
Wichita Falls, TX 76301

NORESCO, LLC

David Mannherz
Executive Vice President
One Research Drive,
Westborough, MA 01581

(11) Waiver

The waiver by either party of a breach of any term or provision of this MOU shall not operate or be construed as a waiver of any subsequent breach of the same provision or of the breach of any other term or provision of this MOU.

City of Wichita Falls

Jim Dockery, Date

Assistant City Manager/CFO

NORESCO, LLC



David G. Mannherz, Date

Executive Vice President

**EXHIBIT A
Building List**

Building	Address	Square feet
City Hall	1300 7 th Street	85,720
Police Headquarters	610 Holiday Street	36,000
Health Department	1700 Third Street	30,200
Library	600 11 th Street	49,900
Public Safety Training Center	710 Flood Street	28,000
JS Bridwell Ag Center	111 Burnett Street	122,500
Ray Clymer Exhibit Hall	1000 Fifth Street	97,000
Kay Yeager Coliseum	1000 Fifth Street	154,000
Central Service	2100 Seymour Highway	73,840
Jasper Water Treatment Plant	2901 Burnett	20,230
Cypress Water Treatment Plant	4801 Big Ed Neal	62,030
River Rd Waste Water Treatment Plant	1005 River Road	18,400
Castaway Cove Water Park	1000 Central Fwy E.	
TOTAL		777,820

- City wide water meters can be added to the project if directed in writing by the City's Assistant City Manager/CFO. If water meters are added, (5) Compensation and Payment, will be adjusted for testing in accordance with specific agreement between the parties to provide compensation for said testing costs.

EXHIBIT B

Scope of Services

The Investment Grade Audit Report will be in the form of the attachments to the Energy Services Agreement. The Report Scope of Services includes the following:

Investment Grade Audit Plan 20%

NORESCO will prepare a comprehensive plan for developing and completing the Investment Grade Audit Plan. This plan will be presented to the City team as part of a kickoff meeting to establish tasks, roles and responsibilities and finalize a schedule to complete the work. As part of the kickoff meeting NORESKO will complete the following:

- Review of available facility blueprints and specifications provided by the City to become familiar with the facility systems and equipment
- Interview operating personnel and occupants to get a better understanding about the building systems and operations, and to discuss any issues or problems that need to be addressed as part of the overall solutions that the study presents
- Obtain a list of preferred contractors if available
- Obtain detailed operating schedule on equipment and facility
- Gather most recent utility cost (gas, electric, water and refuse)
- Gather detailed current and future years O&M and Capital budget plans
- Gather information and copies of existing Maintenance and Service Contracts
- Obtain letter of authorization from the City releasing utility data to NORESKO
- Obtain facilities and operational calendar
- Perform an initial walk through of the facilities to become familiar with the building systems and equipment and to compare the actual systems with the original design
- Perform preliminary analysis of the feasibility of the potential measures

On Site Field Audit 45%

During a planned site visit, a team of NORESKO energy professionals will survey each facility and gather necessary information in order to perform the engineering and energy evaluation. Tasks that NORESKO will complete during the field visit include:

- Inventory all energy related equipment
- Document nameplate data of all equipment
- Document locations and verifying print/layout maps
- Photograph existing equipment
- Conduct isolated monitoring (if necessary)
- Interview staff and maintenance personnel
- Obtain operating schedules, procedures and system configurations

Utility Tariff Analysis 5%

NORESCO will perform utility analysis of each facility using past energy history, to determine the monthly electric and gas consumption and demand profiles, and compare the energy use indices of the facility with similar facilities in the same geographic location. This step provides important preliminary information about the existing potential at each facility. Tasks that NORESKO will complete during the analysis include:

- Perform utility bill analysis

- Establish base year consumption
- Interview the City facility personnel on billing issues and anomalies
- Integrate base year utility analysis into Measurement & Verification (M&V) plan
- Develop a 25-year rate forecast by fuel type (electric, gas, water)

Energy Analysis 5%

NORESCO will complete a comprehensive energy analysis of each facility using the information provided by the City, the data gathered during the on-site field audit, and the results of the utility tariff analysis. Results of the energy analysis will determine the annual energy savings by each piece of equipment for each facility. Tasks that NORESKO will complete during the energy analysis include:

- Determine energy savings methodology by ECM
- Perform savings evaluation
- Document assumption and detailed calculations
- Develop Operating Standards for all equipment by ECM
- Develop M&V plan by ECM for implementation

Savings methodologies will be in accordance with the Measurement & Verification Plan supporting all calculations and assumptions.

Cost Benefit Analysis 10%

NORESCO will complete a cost benefit analysis to demonstrate the financial impacts to the City for implementing the proposed solutions. Project costing will be based on the fee structure outlined below and will include, but is not limited to, the following:

- Equipment and installation costs
- Engineering costs
- Detailed design costs
- Construction management costs
- Commissioning costs
- Project development costs
- Measurement & Verification costs
- Administrative costs
- Project contingency costs
- Overhead and fees
- Taxes
- Construction interest

Project Management Plan 10%

NORESCO will prepare a project plan for implementation that will include the following:

- Project installation
- Construction scope of work
- Equipment specification/cut sheets
- Commissioning procedures
- Project schedule

Measurement and Verification Plan 5%

Goals of the Measurement and Verification (M&V) process are to provide substantial proof that the appropriate savings are achieved by the projects implemented and the persistence of savings are realized. The M&V process starts by establishing an M&V plan, which includes the parameters that will be measured, baseline definition and establishment, the measurement time period, the energy savings calculation methodology, savings adjustment methodology utilizing the International Performance Measurement and Verification Protocol (IPMVP) approach and the associated equipment. The M&V Plan is established and developed to fit the specific energy conservation measure that is being implemented.

CITY COUNCIL AGENDA
July 5, 2011

ITEM/SUBJECT: Resolution Initiating The Process Of Redistricting City Council Districts And Voting Precincts, Establishing Criteria For Redistricting, And Appointing A Citizens Advisory Committee To Provide Advice And Public Input With Respect To Said Redistricting Process

INITIATING DEPT: City Attorney & City Clerk

COMMENTARY: The City, County, and School District (local government entities) have received their census results. Federal law requires redistricting if election districts exceed 10% variance between districts. The local government entities each have more than 10% variance between their districts. Consequently, the local government entities have contracted with the firm of Allison, Bass, and Associates, LLP to provide redistricting services.

State law requires the election precincts to correspond between the local government entities. Therefore, the local government entities will need to cooperate to provide workable election precincts in conjunction with redistricting. The attached resolution will provide criteria and mechanisms for that redistricting and establishment of voting precincts.

☒ **City Attorney & City Clerk**

CITY MANAGER'S REMARKS: Results of the recent Census indicate that population shifts have occurred since the last Census, making it mandatory for the City, County and WFISD to redraw election districts. State laws are specific as to how these districts must be redrawn to meet demographic characteristics in each district. The election precincts of all local governmental entities must also correspond. As a result, it is necessary for each entity to cooperate in this effort. The attached resolution outlines how this redistricting process will unfold using a Citizens Advisory Committee and the assistance of the legal firm of Allison, Bass, and Associates. The City's cost for this legal assistance is \$14,000.

☒ **City Manager**

ASSOCIATED INFORMATION: Resolution

BUDGET CERTIFICATION (Account No./ Amount) (- -) / ()
☐ **Budget Office Review**

LEGAL CERTIFICATIONS:

☒ **APPROVED AS TO FORM:**

CODIFICATION:

☐ YES ☒ NO

City Attorney

RESOLUTION NO. _____

Resolution Initiating The Process Of Redistricting City Council Districts And Voting Precincts, Establishing Criteria For Redistricting, And Appointing A Citizens Advisory Committee To Provide Advice And Public Input With Respect To Said Redistricting Process

WHEREAS, the City of Wichita Falls, City Council has previously retained the firm of Allison, Bass & Associates, LLP, of Austin, Texas, to conduct an Initial Assessment of existing political boundaries of the City of Wichita Falls, following the issuance of census data by the United States Census Bureau. Attached to this Order, and incorporated herein for all purposes by reference, is a copy of the **Initial Assessment** conducted by Allison, Bass & Associates, LLP;

WHEREAS, the Initial Assessment was based upon PL94-171 data, as required by federal law, and is further based upon information provided to Allison, Bass & Associates, LLP by the Texas Legislative Council, the Texas Association of Counties and by the City of Wichita Falls, Texas;

WHEREAS, based upon this information, the City of Wichita Falls has a total maximum deviation of 27.00%;

WHEREAS, the “total maximum deviation” is determined by dividing the total population of the City of Wichita Falls by the number of city districts to determine an ideal district size. The actual population of each district was then determined, based upon the official population data contained within the census count, as defined by Public Law 94-171;

WHEREAS, the actual population of each district was compared to the ideal ward size and a range of deviation by percentage was determined;

WHEREAS, a total maximum deviation in excess of 10% is presumptively unconstitutional under established federal law; therefore, the City of Wichita Falls, Texas, has a constitutional duty to redistrict its political boundaries to achieve “One-Person-One-Vote” numerical balance between the Council districts at a legally acceptable margin of deviation, and to make such changes as are necessary to comply with the U.S. Voting Rights Act and applicable state and federal law; and

WHEREAS, the City Council finds the public interest will be served by redrawing the existing political boundaries of the City of Wichita Falls in such a manner as to comply with applicable state and federal law.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WICHITA FALLS, TEXAS, THAT:

1. The City will immediately undertake such necessary and appropriate action to accomplish redistricting of existing city districts and any incidental modification of existing, consolidated, or newly created election precincts as necessary to accomplish such redistricting.

2. The City Council will convene in open meetings, duly posted in accordance with the Texas Open Meetings Act, to take up and consider one or more alternative plans for the legal redistricting of the City of Wichita Falls.

3. After due consideration of one or more alternative plans, the City of Wichita Falls will adopt a plan deemed to satisfy legal requirements, and which best suits the legitimate governmental needs of the City of Wichita Falls.

4. The redistricting plan ("plan") shall, after adoption, be submitted to the United States Department of Justice for review as required by 42 U.S.C. §1973, otherwise known as the Voting Rights Act.

5. Upon preclearance, such plan, or a plan subsequently modified to obtain preclearance, will be implemented for elections in the year 2012 and thereafter or until a suitable substitute has been lawfully adopted.

6. The plan should, to the maximum extent possible, conform to the following criteria:

- a. The plan should ensure that all applicable provisions of the U.S. and Texas Constitutions, the Voting Rights Act, the Texas Election Code are honored.
- b. The plan should address minority representation, and if at all possible in conformity with constitutional standards, avoid retrogression in the percentage of population and voting age demographics consistent with existing minority representation.
- c. The plan should preserve minority communities of interest. These communities of interest should be recognized and retained intact where possible. Only when the overall minority population of the City is sufficiently large, should the City require more than one minority district, should minority populations be divided and only then to the least degree possible.
- d. The plan should not attempt to unreasonably join geographically remote minority populations into a single precinct unless there are strong and genuine connections between these communities as reflected by common schools, churches, or cultural ties. For example, minority populations in two separate towns, located miles apart, may not have sufficient links or common political cohesion to justify joining these two minority population centers into a

single electoral group. Particularly when dealing with distinct minority groups, a general assumption that separate minority populations will vote in a “block” may be unsupportable in fact.

- e. The plan should seek compact and contiguous political boundaries. Physical boundaries which tend to divide populations in fundamental ways should be recognized and communities of interest retained intact where possible. To the maximum extent possible, clearly recognized boundaries should be used to facilitate ease of voter identification of boundaries, as well as election administration.
- f. Where possible, well-recognized and long-used election precinct boundaries should be retained intact (within the limitations imposed by state and federal law) or with as little alteration as possible.
- g. Election precincts in the plan should be sized in conformity with state law. (For example, in cities that use traditional, hand-counted paper ballots, no election precinct may contain more than 2,000 voters. In cities with voting systems that allow for automated ballot counting, this number may be increased to as many as 5,000 voters.)
- h. The plan should afford incumbent office holders with the assurance that they will continue to represent the majority of individuals who elected these incumbents, and all incumbents’ residential locations should be retained in their reformed precincts to insure continuity in leadership during the remaining term of incumbents.
- i. The plan should address fundamental and necessary governmental functions, and to the extent possible, ensure that these functions are enhanced rather than impaired. Election administration should not be unduly complex as a result of election boundaries.
- j. The plan should ensure that election voting precincts under such plan do not contain territory from more than one of the following to provide to the greatest extent possible harmonious administration of various election jurisdictions:
 - commissioners precinct;
 - justice precinct;
 - congressional district;
 - state representative district;
 - state senatorial district;
 - City district;
 - State Board of Education districts;
 - other special election districts.
- k. The plan should attempt to locate polling places in convenient, well-known locations that are accessible to disabled voters to the maximum extent possible. Public buildings should be utilized to the maximum extent possible as polling places. Where necessary, buildings routinely open to the public, such as churches, retail businesses, or private buildings dedicated to public activities, should be used as polling places.

- I. The foregoing criteria are deemed to be illustrative, but not exclusive, examples of fundamentally important issues, which should be considered in any redistricting plan. Therefore, the City Council expresses its intent to measure any plan submitted for consideration by this set of criteria, and to base any eventual exercise of discretion upon the foregoing criteria.

7. The following persons are appointed to the Citizens Advisory Committee for Redistricting:

PASSED AND APPROVED this the 5th day of July, 2011

M A Y O R

ATTEST:

City Clerk

INITIAL ASSESSMENT
OF THE CITY OF
WICHITA FALLS, TEXAS
FOR PURPOSES OF REDISTRICTING EVALUATION

Prepared by

ALLISON, BASS & ASSOCIATES, L.L.P.

Attorneys at Law

The A.O. Watson House

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Austin, Texas 78701

(512) 482-0701

(512) 480-0902

Law@allison-bass.com

**Should you determine that maps depicting various political
boundaries are incorrect, please advise us immediately.**

TAB 1

GENERAL OVERVIEW

The Initial Assessment is a narrative analysis of the data contained in the PL94-171 files provided by the Census Bureau, together with an explanation of the impact such data may have upon the City of Wichita Falls in light of state and federal law.

Following the Supreme Court decision in *Avery v. Midland City*, 390 U.S. 474; 88 S. Ct. 1114, 20 L. Ed. 2d 45 (1968), Texas City Councils have been required to make a periodic assessment of their political boundaries to determine whether the boundaries retain "one-person-one-vote" balance. This requirement is now carried forward by statutory requirement in Article 42.001 of the Texas Election Code, and has been extended in turn to virtually all political bodies that elect representatives from special member districts, or geographic regions of the political jurisdiction in which the candidates for representative office must reside.

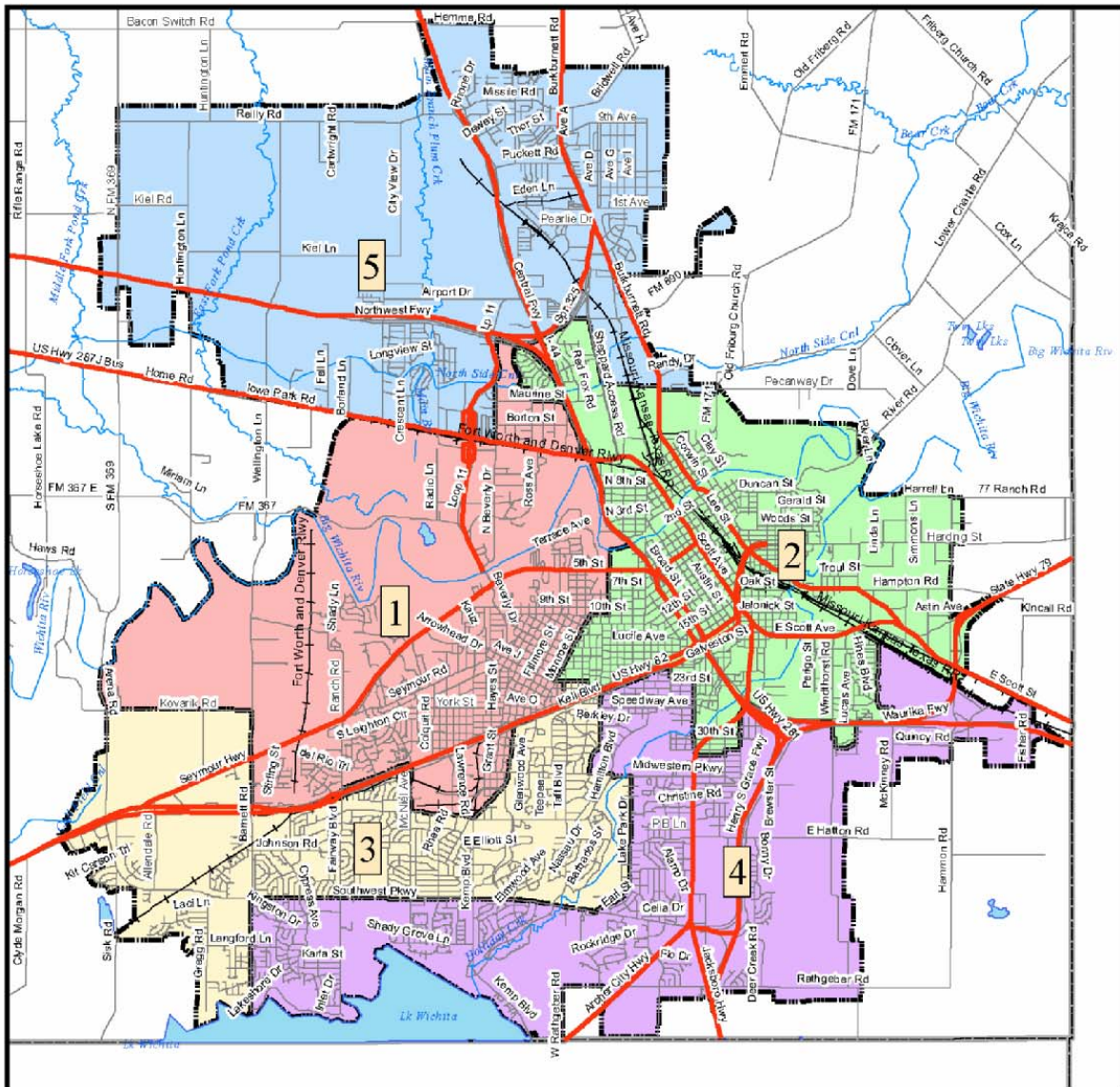
Therefore, following each federal census, each Texas County, city, school district or other political entity electing representative officers from geographic regions of the sub-division should conduct an assessment of existing political boundaries. It should be carefully noted that simple comparisons between the City population of 2000 and 2010, or even a more sophisticated analysis of the urban and less populated areas of the City might not reflect the true extent of population "change" each City has experienced over the last ten years. "Change" may not directly correlate to "different" or "new" population. For example, existing populations within a City will, over time, move considerably within the City, rendering existing political boundaries constitutionally questionable over a ten-year span. In small population jurisdictions, the movement of a single large family from a one area of town to another across political boundaries may have a significant impact on the obligation of that City to redistrict. As a very general rule of thumb, any statistical change of population between the 2000 and 2010 census more than 3%, plus or minus, will indicate a potential need for redistricting in order to retain numerical balance between the governing body's representative districts. Only in rare circumstances will a City experiencing a population change in excess of 3% avoid the need for rather extensive reapportionment of the City Council ward lines. However, any assumption that a population change of less than 3% will not require reapportionment is ill advised. Populations will shift within a City over time. Every City, city, school district or other political entity electing representative officers from geographic regions of the sub-division, even those with a rather insignificant overall population change, should carefully examine actual population demographics relative to their existing political lines to determine the need for reapportionment.

Demographic data is depicted in chart and graphic form for both total population as well as voting age population. While "One-Person-One-Vote" balance between the City Council Wards is based upon the entire City population, the availability of voting age populations is also important in two respects.

In Cities inhabited by a significant minority population, the need to create one or more City Council Wards that assure minority representation requires utilization of voting age information. While the actual political boundaries will be based upon total population, the viability of the resulting Ward in terms of the ability to elect requires analysis of voting age population.

With this general overview, the following sections of this Initial Assessment will evaluate the City of Wichita Falls's political boundaries and attempt to determine whether or not the City Council should undertake reapportionment. Our assessment will point out areas of potential conflict with state and federal law, and will also suggest areas that may be considered for purposes of cost effectiveness and voter/resident convenience.

All computer generated matters contained in this report, including statistical ratios or formulas, are derived from information taken directly from the Public Law 94-171 files of the United States Census Bureau. Allison, Bass and Associates, LLP is not responsible for errors that may occur in the PL94-171 data obtained from the United States Census Bureau.



<ul style="list-style-type: none"> District 1 District 2 District 3 District 4 District 5 	<h2>City of Wichita Falls</h2> <p>Existing Plan Council Districts</p>	<p>0 0.5 1 2 Miles</p>
<p>Allison, Bass & Associates, LLP Date: Data Source:</p>		

TAB 2

INITIAL SUMMARY FINDINGS REGARDING NUMERICAL BALANCE:

Definitions of the various ratios, formula and procedures utilized in the analysis of City population are provided below. These ratios, formula and procedures have been largely developed in case law in the field of redistricting, together with generally recognized methods of sociological study.

NOTE: The Census Data contains Prison inmate populations, and while this institutionalized population should be included in all gross population numbers used to determine City eligibility for state or federal programs, grants or revenue sharing, there are good reasons to exclude this population from "one-person-one-vote" calculations. Because many institutionalized inmates are detained under felony convictions, or are being held for deportation for violation of immigration laws, these individuals are typically not eligible to vote under Texas law, and are most commonly registered to vote, if at all, in the City of their true residence. As such, large populations of inmates held within the state or federal prison systems physically located within the municipal boundaries, or under public or private contract in City facilities, are not generally counted in the determination of Total Maximum Deviation, or for other "one-person-one-vote" determinations for City redistricting. For purposes of the Initial Assessment, raw data has been acquired from the City and/or the Department of Criminal Justice regarding prison populations. In subsequent census data releases, group housing data may reveal more specific information, but at this time, we are deducting prison populations from City population totals in order to arrive at a true "one-person-one-vote" analysis, and to avoid potential imbalances in population that might result from inclusion of prison population in Ward totals. Smaller facilities holding persons convicted of both felony and misdemeanor offenses, juvenile facilities, or facilities holding individuals pending resolution of pending criminal charges are included within the population counts for the City, as reflected in the census data.

Please review the information contained under Tab 2 carefully. Please pay particular attention to the following:

1. Please consider the Absolute Deviation in terms of population between the Actual Population of each City Council Ward and the Ideal Population. Remember that the ideal population of each ward is the total City population, divided by the number of single member districts.
2. Next, consider the Relative Deviation, expressed as a percentage, of the Actual Population of each Ward as compared to the Ideal Population of each Ward.
3. Redistricting will be necessary to comply with 'One-Person-One-Vote' standards if the Total Maximum Deviation between the largest Ward and the smallest Ward (in terms of population) exceeds 10%.

4. Therefore, carefully examine the Total Maximum Deviation calculation. If that number is more than 10%, the City of Wichita Falls is legally obligated to make changes in its political boundaries to re-balance the population to more equal terms.
5. If the Total Maximum Deviation exceeds approximately 7%, you may want to consider redistricting in order to re-balance your boundaries, although you are not legally required to do so at this time. However, with only a few percentage points separating the City of Wichita Falls from the 10% maximum standard, you would be prudent to consider redistricting at this time. A suit can be filed at any time the statistical evidence suggests a City's political boundaries are no longer constitutionally balanced.
6. If the Total Maximum Deviation is below 5%, you are generally safe from legal challenge on a "one-person-one-vote" basis for the next few years.

Wichita Falls Council Districts

Statistical Measures of Population Equality

Council Districts	Actual Population	Ideal Population	Absolute Deviation	Relative Deviation
District 1	19,488	20,185	-697	-3.45%
District 2	18,012	20,185	-2,173	-10.77%
District 3	22,617	20,185	2,432	12.05%
District 4	23,128	20,185	2,943	14.58%
District 5	17,679	20,185	-2,506	-12.42%
Total Population	100,924			

Ideal Population is defined as (total population divided by 5). Absolute and Relative (%) Deviations are difference in actual and ideal.

-2,506 to 2,943 **Absolute Range** is the spread in absolute deviation from the smallest District to the largest.

-12.42% to 14.58% **Relative Range** is the spread in relative deviation (%) from the smallest District to the largest.

2150.2 **Absolute Mean Deviation** is the average deviation, which is calculated by adding all the absolute deviations (ignoring "+" and "-" signs) and dividing by 5.

10.65% **Relative Mean Deviation** is the average deviation, which is calculated by adding all the relative deviations (ignoring "+" and "-" signs) and dividing by 5.

834.32 **Standard Deviation of Population** is the square root of the sum of the squares of all the absolute deviations divided by 5.

5.06% **Standard Deviation of Relative Deviations** is the square root of the sum of the squares of all the relative (%) deviations divided by 5.

53.26% **Total Absolute Deviation** is the sum of all relative deviations (ignoring "+" and "-" signs).

27.00%	Total Maximum Deviation is the sum of the relative deviations (%) of the smallest and largest Districts, (ignoring "+" and "-" signs).
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TAB 3

MINORITY VOTING RIGHTS

We have extracted from the Census data a summary of each City Ward. Prior to the 1990 census, previously existing election precinct boundaries were often described by non-physical boundaries, such as survey lines, or "metes and bounds" descriptions of real property. Since the computerized census first implemented in 1990 was based upon topological maps, it was necessary to "approximate" those boundaries that were not defined by a physical boundary such as a road, watercourse, or other physical boundary. These approximations were described as Voter Tabulation Districts, or VTDs. It should be noted that the VTD was only an approximation of the actual voting boundaries, since Public Law 94-171 requires that the VTD utilize census blocks as its component parts.

Texas Counties are responsible for the structure of county election precincts. These county election precincts should recognize city ward boundaries in cities having a population of more than 10,000. In 1990, most counties adopted election boundaries based on census blocks, but VTDs are still encountered. The boundaries utilized in this Initial Assessment are derived from the Texas Legislative Council, and have been, to the extent possible, confirmed as accurate by local officials. However, some counties continue to have election precinct boundaries defined in a manner that is incompatible with census block based mapping. Therefore, in some cases, you may find a discrepancy between the actual boundary in use, and the census block based mapping boundaries used in this report. All future election precincts should be based upon census blocks to avoid any discrepancy between the actual boundary in use and the official boundary description maintained by the Texas Legislative Council.

As a general rule, where the total minority percentage exceeds 25% of the total population, there is ample justification to create at least one, or where the minority population is sufficient, more than one City Council Ward that contains a potential voting majority of minority residents. In concentrations greater than 40%, consideration should be given to creating at least one City Council Ward with a potential voting majority of minority residents, with the possibility of any "excess population" being used to impact one or more other Wards. Where the total minority concentration exceeds 40%, the issue of "Packing" becomes a consideration, meaning that minority populations cannot be "packed" into a single Ward, but must be allowed to influence as many Wards as the total minority population warrants without efforts to fragment otherwise contiguous concentrations of minority population.

Minority representation must not be diluted, and where possible, a voting majority of minority residents should be created if sufficient minority populations existing within a reasonably compact and contiguous geographic area. In order to achieve the maximum minority representation within the demographic and geographic limitations in existence, it will be necessary to determine which City Ward, and which census blocks within each Ward, contain the highest percentage of minority population and to take such reasonable measures as will insure the highest possible minority voice in City government. To achieve this goal, some attention must be paid to voting age minority residents. In order to create a

viable voting majority of ethnic, race or language minority voters, it is necessary to attain a voting age population within at least one City Council Ward of approximately 55% or better. In order to accomplish this high number of voting age population, a total population figure in excess of 60% is typically required. This is due to the statistically younger populations in most minority categories, which yield lower numbers of voting age residents, and in historically lower voting age turnout in minority communities of interest.

A determination of whether or not the minority populations in these areas could be joined in a single Ward, or perhaps concentrated in an effort to maximize minority impact upon elections is difficult to assess without a more detailed evaluation of historical voting patterns, racial demographics, and the realities of political boundaries.

When taken with the numerical imbalances that must be addressed, it would appear that if at all possible, minority populations might be concentrated in at least one City Council Ward to the degree possible to achieve an acceptable potential minority concentration. Typically, the City Council Ward with the largest minority concentration prior to redrawing lines is the best candidate for any alternative plan, but other possible constructions of Ward lines might well result in a favorable racial profile.

Fragmenting minority population concentrations must be avoided. Any modification of political boundaries to accomplish compliance with the requirements of the Voting Rights Act must be carefully considered.

Maps for Hispanic and Black populations are provided in this assessment. Other Non-Anglo Populations, such as Asian, American Indian, Pacific Islander, Other or Multi-racial categories in excess of 3% aggregate will also be mapped.

Wichita Falls Council Districts

Analysis of Population in Council Districts based on 2010 Census data

Ethnic Background of Total Population

	Anglo	Black	Amer. Indian	Asian	Hispanic	Hawaii/ Pac. Is.	Other	Multi Race	Prec. Total	% of County
District 1	13,236	1,030	188	481	4,181	10	17	345	19,488	19.31%
District 2	6,246	4,861	173	184	6,173	16	23	336	18,012	17.85%
District 3	17,175	1,697	128	659	2,582	16	18	342	22,617	22.41%
District 4	17,103	1,563	155	532	3,313	14	17	431	23,128	22.92%
District 5	11,692	2,278	145	536	2,346	26	15	641	17,679	17.52%
County Total	65,452	11,429	789	2,392	18,595	82	90	2,095	100,924	100.00%
% of County	64.85%	11.32%	0.78%	2.37%	18.42%	0.08%	0.09%	2.08%	100.00%	

Ethnic Background as a % of Total Population

	Anglo	Black	Amer. Ind.	Asian	Hispanic	Haw/Pac	Other	Multi	% Total
District 1	67.92%	5.29%	0.96%	2.47%	21.45%	0.05%	0.09%	1.77%	100.00%
District 2	34.68%	26.99%	0.96%	1.02%	34.27%	0.09%	0.13%	1.87%	100.00%
District 3	75.94%	7.50%	0.57%	2.91%	11.42%	0.07%	0.08%	1.51%	100.00%
District 4	73.95%	6.76%	0.67%	2.30%	14.32%	0.06%	0.07%	1.86%	100.00%
District 5	66.13%	12.89%	0.82%	3.03%	13.27%	0.15%	0.08%	3.63%	100.00%

Ethnic Background of Voting Age Population

	Anglo	Black	Amer. Indian	Asian	Hispanic	Hawaii/ Pac. Is.	Other	Multi Race	Prec. Total	% of County
District 1	10,854	753	143	362	2,603	6	7	177	14,905	19.32%
District 2	5,164	3,469	123	153	3,788	16	10	186	12,909	16.73%
District 3	13,945	1,386	94	536	1,659	14	14	186	17,834	23.12%
District 4	13,577	1,042	102	390	2,027	8	9	199	17,354	22.49%
District 5	9,654	1,817	115	464	1,652	24	10	409	14,145	18.34%
County Total	53,194	8,467	577	1,905	11,729	68	50	1,157	77,147	100.00%
% of County	68.95%	10.98%	0.75%	2.47%	15.20%	0.09%	0.06%	1.50%	100.00%	

Ethnic Background as a % of Voting Age Population

	Anglo	Black	Amer. Ind.	Asian	Hispanic	Haw/Pac	Other	Multi	% Total
District 1	72.82%	5.05%	0.96%	2.43%	17.46%	0.04%	0.05%	1.19%	100.00%
District 2	40.00%	26.87%	0.95%	1.19%	29.34%	0.12%	0.08%	1.44%	100.00%
District 3	78.19%	7.77%	0.53%	3.01%	9.30%	0.08%	0.08%	1.04%	100.00%
District 4	78.24%	6.00%	0.59%	2.25%	11.68%	0.05%	0.05%	1.15%	100.00%
District 5	68.25%	12.85%	0.81%	3.28%	11.68%	0.17%	0.07%	2.89%	100.00%

TAB 4

GENERAL HOUSEKEEPING

Some attention should be given to "straightening" political boundaries into more uniform shape. In some cases, certain boundaries may be altered to use a more commonly understood or recognized physical boundary in lieu of a poorly identified or recognized boundary. Public Law 94-171, which directed the Census Bureau to develop a uniform mapping and demographic profiling approach for use by small computers, required that all voter tabulation districts (VTDs) follow census block boundaries. In many cases, City wards had been previously drawn in a manner that did not follow a census block boundary. This required the State of Texas, acting in conjunction with the State Data Center and the Texas Legislative Council, to move the actual voting district boundary to coincide with a nearby census block boundary for tabulation purposes only. The resulting VTD was no longer "actual," but an approximation referred to as a "pseudo-voting district."

Every reasonable effort has been made to conform the pseudo voting district to actual political boundaries. However, due to the nature of the available data base, and the requirements of Public Law 94-171, there may be occasions in which the pseudo voting districts, or the resulting lines between City Council Wards, are different from those that actually exist. Again, the use of the pseudo voting district was for tabulation purposes only, and any apparent difference between actual and apparent political lines should be considered as minimal. However, since all later census counts will be undertaken upon the census blocks, there could be a valid argument that a necessity to alter current election district boundaries to match the census block format exists. Under these circumstances, new political lines will be required to avoid conflict with census block lines that do not match current political area definitions. While matching census blocks to actual political lines would not, in and of itself, generally support a decision to reapportion under the circumstances that exist in the City of Wichita Falls, there is a justifiable combination of factors that would support a reapportionment decision. These factors would include:

1. Redrawing election precincts to increase voter convenience.
2. Harmonizing actual political lines with pseudo voting districts based upon census blocks.
3. Redrawing all lines to achieve "one-person-one-vote" deviations of the smallest possible percentage.

CONCLUSION

Redistricting should be viewed as an opportunity for streamlining City organization, and a chance to address as many issues as possible to achieve greater participation and involvement in City government. This is the time to plan for future growth, anticipate costs of government operations, and to involve the public in the process of City government. We look forward to working with you in this exacting but rewarding process.